



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 208623

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

VIRGILIO ANTONIO y RIVERA,
Accused-Appellant.

Promulgated:

JUL 23 2014

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RESOLUTION

REYES, J.:

For review¹ is the Decision² rendered by the Court of Appeals (CA) on October 8, 2012 in CA-G.R. CR-HC No. 04149 affirming, albeit with modifications as to the damages imposed, the Judgment³ dated September 4, 2009 of the Regional Trial Court (RTC) of Tuguegarao City, Branch 4, in Criminal Case Nos. 10244-10245, convicting Virgilio Antonio y Rivera (accused-appellant) of two counts of Rape committed against AAA,⁴ a minor.

¹ Rollo, pp. 14-15.

² Penned by Associate Justice Manuel M. Barrios, with Associate Justices Remedios A. Salazar-Fernando and Normandie B. Pizarro, concurring; CA rollo, pp. 110-121.

³ Issued by Judge Lyliha L. Abella-Aquino; id. at 14-25.

⁴ 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 initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

A

Antecedents

Two separate informations for rape were filed against the accused-appellant before the RTC, viz:

Criminal Case No. 10244

That on or about and sometime in the year 2001, in the Municipality of Alcala, Cagayan and within the jurisdiction of this Honorable Court, the said accused, VI[R]GILIO ANTONIO, with lewd design and by the use of force, threat, and intimidation, did [then] and there, willfully, unlawfully and feloniously have sexual intercourse with the offended party, [AAA], a minor 14 years of age⁵ against her will.

That in the commission of the offense[,] the aggravating circumstance of uninhabited place was present.

Contrary [to law].⁶

Criminal Case No. 10245

That on or about August 26, 2003, in the Municipality of Alcala, Province of Cagayan[,] within the jurisdiction of this Honorable Court, the said accused, VIRGILIO ANTONIO, being then the guardian of the private complainant [AAA], a minor 14 years of age[,] who was then under his care and custody[,] with lewd design and by the use of force, threat and intimidation, did, then and there willfully, unlawfully, and feloniously have sexual intercourse with the offended party, [AAA], a minor 14 years of [age] against her will.

Contrary to law.⁷

The accused-appellant entered a not guilty plea during the arraignment.

On February 23, 2005, pre-trial was conducted. The prosecution proposed for the parties to stipulate on the following, which the defense admitted: (a) the identity of the accused-appellant; (b) his relationship as AAA's godfather; (c) the dates, times and places of the commission of rape; and (d) AAA's minority at the time the crimes were allegedly perpetrated.⁸

⁵ According to AAA's birth certificate and the parties' stipulation, she was born on May 28, 1989, thus, she was 11 years old and not 14 when the alleged first rape incident took place in April of 2001; CA rollo, p. 17.

⁶ Id. at 14.

⁷ Id. at 15.

⁸ Id.

The prosecution marked and offered: (a) AAA's birth certificate indicating that she was born on May 28, 1989; (b) the medicolegal certificate dated September 2, 2003, which was prepared by Dr. Rafael Sumabat (Dr. Sumabat); and (c) AAA's affidavit. The defense, on its part, offered no documentary evidence.⁹

In the joint trial that ensued, the prosecution offered the testimonies of AAA and Dr. Sumabat. On the other hand, the accused-appellant was the defense's lone witness.

Version of the Prosecution

The Office of the Solicitor General (OSG) aptly summed up the prosecution's version of the events as follows:

In March of 2001, eleven[-]year old [AAA] began living with [accused-appellant's] family in Maraburab, Alcala, Cagayan Province after her parents had separated. [Accused-appellant] and his wife, Rose, are [AAA's] godparents[,] who treated her as one of their own children x x x.

Sometime in April 2001, [accused-appellant], who maintains a farm in the highlands of Cagayan, asked [AAA] to help him harvest palay there. Alone together, [accused-appellant] and [AAA], started for the farm very early that April morning. After an hour's walk, they reached the place and immediately began to harvest palay x x x.

Just before lunch time, [accused-appellant] led [AAA] to a bamboo grove within the farm. Once there, he threatened to kill her if she told anyone regarding what he was about to do. [Accused-appellant] lost no time in making [AAA] lie down. After which, he took off her shorts and underwear. Although very much alarmed, he likewise removed his own shorts and underwear. [AAA] could not do anything as she was afraid because they were alone x x x.

With both their private parts now uncovered, [accused-appellant] inserted his penis into [AAA's] vagina. She felt pain course through her genitals. Helpless, [AAA] could only cry and mutter "aray". After awhile, she felt liquid emitting from [accused-appellant's] penis. Satiated, [accused-appellant] threatened [AAA] with death once again if she reveals to anyone that he had abused her. They went home later that afternoon. Fearful of [accused-appellant's] threat, [AAA] did not dare to reveal to anyone regarding her ordeal and went on to stay with [accused-appellant] and his family x x x.

On the evening of August 26, 2003, Rose Antonio, together with her two children with [accused-appellant], went to the town proper of Alcala to celebrate its fiesta. [AAA] and [accused-appellant] were left alone in the house on that night. She went to bed around eight in the

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Id. at 16.

evening. However, around 10PM, she was awakened by the weight of [accused-appellant] bearing down on her body. [Accused-appellant] was wearing a shirt and nothing else. She realized to her horror that her shorts and underwear had already been removed. [Accused-appellant] soon began to insert his penis into her vagina. He made a push-pull movement for awhile. [AAA] was not able to shout a single word inside the room which had no light on x x x.

[In] the morning of August 27, 2003, May Dimalay, [accused-appellant's] niece, confronted [AAA] regarding her suspicions that something happened between her and [accused-appellant]. [AAA] finally admitted that [accused-appellant] had raped her. May Dimalay then told [accused-appellant's] wife, Rose Antonio what [AAA] related to her. In turn, Rose Antonio told [AAA's] father regarding the unfortunate developments. When her father and the barangay captain of Maraburab confronted [AAA], she told all the incidents of sexual abuse committed by [accused-appellant] x x x.

On August 28, 2003, Barangay Captain Rey De Luna of Maraburab accompanied [AAA] to the local office of the Department of Social Welfare and Development (DSWD). After being interviewed, [AAA] was brought to the police station in Alcala[,] Cagayan x x x. Eventually, she was examined by the Medico-legal Officer of Alcala, Dr. Rafael Sumabat x x x. His findings on [AAA] were: 1) On examination[,] abdomen is soft, palpable mass noted. External genitalia and thighs are normal. No evidence of trauma; 2) On examination of genitalia, there are old lacerations of hymen at 3-6-9 o'clock respectively; 3) Vagina admits one finger easily and presence of whitish secretions inside vagina. Pregnancy test negative x x x.¹⁰

Version of the Defense

The accused-appellant was vehement in denying the charges against him. He insisted that AAA only started living with them in May of 2002. Hence, he could not have perpetrated the rape ascribed to him which allegedly occurred in April of 2001. As to what transpired in August of 2003, he narrated that Rose, his wife, and AAA left their house to attend a town fiesta on August 25, 2003. The two returned home drunk on August 28, 2003. Rose and the accused-appellant then had a fight because the latter received an information that the former and AAA had a male companion while attending the town festivities. Rose and AAA denied the accusation, which irked the accused-appellant, who in turn ordered the two to leave their house.¹¹

¹⁰ Id. at 86-88.

¹¹ Id. at 55.

Ruling of the RTC

On September 4, 2009, the RTC rendered a Judgment¹² convicting the accused-appellant of two counts of rape. The trial court found that AAA had no ill motive to testify against the accused-appellant, whom she had considered as her guardian or foster father. Further, AAA's testimony as to the sordid acts committed by the accused-appellant was spontaneous and categorical, and her statements were corroborated by Dr. Sumabat's medical findings. On the other hand, the accused-appellant's defenses of denial and *alibi* were weak and could not prevail over AAA's positive testimony. The dispositive portion of the RTC decision thus reads:

ACCORDINGLY, accused **VIRGILIO ANTONIO** y Rivera is hereby found **GUILTY** beyond reasonable doubt for the crime of Rape for two (2) counts, in Criminal Case Nos. 10244 and 10245 defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act 7659 and further amended by Republic Act No. 8353; and Article 266 (A) No. 1 in relation to Article 266 (B) No. 1 of the Revised Penal Code, as amended by Republic Act No. 8353 and hereby sentences him to suffer the penalty of reclusion perpetua in each case; to pay [AAA] the amount of ONE HUNDRED FIFTY THOUSAND ([□]150,000[.00]) PESOS as civil indemnity, ONE HUNDRED FIFTY THOUSAND ([□]150,000.00) PESOS as moral damages and FIFTY THOUSAND ([□]50,000.00) PESOS as exemplary damages.

The preventive imprisonment of the accused shall be credited in full in his favor if he abided in writing by the rules imposed upon convicted prisoners.

No pronouncement as to costs.

SO ORDERED.¹³

The Contending Parties' Arguments Before the CA

The accused-appellant challenged the above disquisition before the CA. He pointed out that according to AAA herself, Dr. Sumabat performed a physical examination on her on August 29, 2003, or three days after the alleged second rape incident occurred. However, this did not complement Dr. Sumabat's explanation that the healed lacerations at "3-6-9 o'clock" positions could have been inflicted at least seven days prior to the examination. The accused-appellant further claimed that it was unusual for a rape victim, whose virtue was allegedly at stake, not to have (a) shouted at all to repel the sexual advances, (b) tried to escape when she had the chance

¹² Id. at 14-25.

¹³ Id. at 24-25.

to do so, and (c) prevented at all cost that she be left alone in the company of her assailant.¹⁴

The OSG, on its part, argued that AAA's failure to shout during the rape incidents should not affect the credibility of her claims. AAA was then a minor, and understandably, she must have been overcome by feelings of helplessness especially since her assailant is her godfather and *de facto* guardian. AAA likewise cried during the trial dispelling insinuations that her testimony was rehearsed.¹⁵

Ruling of the CA

On October 8, 2012, the CA rendered a Decision¹⁶ affirming the accused-appellant's conviction and imposing upon him the penalty of *reclusion perpetua* for each of the two counts of rape. However, for each count, the CA reduced the award of (a) civil indemnity to ₱50,000.00, (b) moral damages to ₱50,000.00, and (c) exemplary damages to ₱30,000.00.

The CA declared that any inconsistency in AAA's testimony anent the date she was examined by Dr. Sumabat was not enough to destroy her credibility. As a child witness, she cannot be expected to perfectly remember all the details of her harrowing experience. Besides, Dr. Sumabat merely made nothing more but a rough estimate that AAA's hymenal lacerations could have been inflicted at least seven days prior to the examination. Citing *People v. Corpuz*,¹⁷ the CA emphasized that AAA was intimidated by the accused-appellant and her alleged lack of resistance did not signify voluntariness or consent to the sexual advances.

Anent the appreciation of the aggravating circumstances alleged in the informations, the CA slightly differed from the RTC in the following wise:

In Our review of the penalty imposed on [accused-appellant], We have noted that the trial court considered the qualifying aggravating circumstance of relationship, since [accused-appellant] is supposedly the guardian of [AAA].

In *People v. Flores*, the Supreme Court held that the guardian must be a person who has legal relationship with his ward. The court adhered to the theory that a guardian must be one who has been legally appointed.

¹⁴ Please *see* Brief for the Accused-Appellant; *id.* at 56-59.

¹⁵ Please *see* Brief for the Plaintiff-Appellee, *id.* at 93, 98.

¹⁶ *Id.* at 110-121.

¹⁷ 597 Phil. 459 (2009).

In this case, however, We note with great significance that the fact of being a guardian was not alleged in the Informations as a qualifying aggravating circumstance. Instead, there was merely a stipulation during the pre-trial hearing that accused-appellant was the “godfather” of [AAA], without showing that accused-appellant was legally constituted in law as the “guardian” of [AAA]. On the other hand, the fact of minority of [AAA] has been proven by her birth certificate and confirmed by her physical appearance.

Consequently, on the first count of rape, We find the existence of the aggravating circumstances of minority of [AAA] and commission of the sexual abuse in an uninhabited place. On the second count of rape, We find the fact of minority of [AAA] as the sole aggravating circumstance. Both crimes are penalized by Reclusion Perpetua. However, We shall reduce the award of civil indemnity from ₱75,000.00 to ₱50,000.00 and moral damages from ₱75,000.00 to ₱50,000.00, for each count of rape since accused-appellant is only guilty of simple rape. On the other hand, the award of exemplary damages in the amount of ₱25,000.00 should be increased to ₱30,000.00, for each count of rape in line with the recent jurisprudence, to set an example for public good.¹⁸ (Citations omitted)

Issue

Aggrieved, the accused-appellant is now before this Court once again insisting on his innocence and reiterating the issue of whether or not his guilt for allegedly having raped AAA on two separate occasions was proven beyond reasonable doubt.

The accused-appellant and the OSG both dispensed with the filing of supplemental briefs and merely adopted their respective arguments raised before the CA.

Ruling of the Court

The Court affirms the CA’s verdict, but modifies the same by imposing interests upon the damages awarded to AAA.

“It is a fundamental rule that the trial court’s factual findings, especially its assessment of the credibility of witnesses, are accorded great weight and respect and binding upon this Court, particularly when affirmed by the [CA]. This Court has repeatedly recognized that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique position of having observed that elusive and incommunicable evidence of the witnesses’ deportment on the stand while

¹⁸ CA rollo, pp. 119-120.

testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath. These are significant factors in evaluating the sincerity of witnesses, in the process of unearthing the truth. The appellate courts will generally not disturb such findings unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.”¹⁹

“For conviction to be had in the crime of rape, the following elements must be proven beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation; or (b) when the victim is deprived of reason or otherwise unconscious; or (c) when the victim is twelve years of age, or is demented.”²⁰

“[I]n rape through force or intimidation, the force employed by the guilty party need not be irresistible. It is only necessary that such force is sufficient to consummate the purpose for which it was inflicted. Similarly, intimidation should be evaluated in light of the victim’s perception at the time of the commission of the crime. It is enough that it produced the fear in the mind of the victim that if she did not yield to the bestial demands of her ravisher, some evil would happen to her at that moment or even thereafter. Hence, what is important is that because of force and intimidation, the victim was made to submit to the will of the appellant.”²¹

In the case at bar, the Court finds the RTC and CA’s factual findings as sufficiently supported by evidence and jurisprudence.

The following is AAA’s account of the rape incident which happened in April of 2001:

Q: What was that incident that happened while you and your ninong were in the mountain?

A: We went in the bamboo groves, sir.

Q: And when you reached the bamboo groves, what happened there[,] madam witness?

COURT: Make it of record that the witness started crying.

A: My ninong threatened me, sir.

¹⁹ *People of the Philippines v. Hermenigildo Delen y Esco Billa*, G.R. No. 194446, April 21, 2014, citing *People v. Leonardo*, G.R. No. 181036, July 6, 2010, 624 SCRA 166, 193.

²⁰ *People v. Valdez*, 466 Phil. 116, 129 (2004), citing *People v. Colisao*, 423 Phil. 229, 238 (2001).

²¹ *Id.* at 129-130, citing *People v. Flores*, 423 Phil. 687, 698-699 (2001).

- Q: How did he threaten you?
A: He told me that he will kill me if I will report the matter to anybody, sir.
- Q: After he uttered those threatening words to you, what happened next if there was any?
A: He laid me down, sir.
- Q: After that[,] what happened next when he laid you down?
A: After he laid me down, he removed my short pants and my underwear and after that[,] he removed his pants and brief, sir.
- Q: When he was removing his pants and brief, why did you not ran (sic) away?
A: Because I was afraid because nobody was there[,] [W]e do (sic) not have any companion, sir.
- Q: After removing his pants and brief, what happened next?
A: He inserted his private part into my vagina, sir.
- Q: What was your position when he inserted his penis in your vagina[?]
A: I was lying down, sir.²²

AAA likewise recounted the second rape incident, which occurred on August 26, 2003, viz:

- Q: You said that you were left behind in the house of your uncle the night of August 26, 2003[,] [W]hat time[,] if you can still recall[,] when you went to bed to sleep?
A: 8:00 o'clock, sir.
- Q: How about your ninong Virgilio Antonio[?] [W]here was he when you went to sleep[,] madam witness?
A: He also went to sleep, sir.
- Q: Do you recall if your sleep was interrupted?
A: Yes, sir.
- Q: What time [was that] when you were awoken? (sic)
A: About 10:00 o'clock in the evening, sir.
- Q: Why, what happened during that night?
A: When I woke up, I noticed that my ninong was on top of me, sir.
- Q: Can you describe his appearance when he was on top of you?
A: He moved in a push and pull position.
- Q: Was he with his pants at that time?
A: He has (sic) his t-shirt but he was naked down.

²² CA rollo, pp. 116-117.

- Q: What were you wearing when you slept that night?
A: T-shirt and underwear, sir.
- Q: What about your clothing[?] [W]hat happened with your clothing?
A: When I woke up[,] I [no longer had] my short[s] and panty.
- Q: When you noticed that you were already naked, did you not shout?
A: I shouted, sir.
- Q: What did you utter when you shouted?
A: I did not shout, sir.
- Q: Aside from noticing that you were naked down, what did you notice?
A: He inserted his penis in my vagina, sir.
- Q: How long did he insert his penis in your vagina?
A: I cannot remember because I was sleeping at that time, sir.
- Q: Can you describe his body movement when he inserted his penis in your vagina?
A: He was doing the push and pull movement[,] sir.²³

“The eloquent testimony of the victim, coupled with the medical findings attesting to her non-virgin state, should be enough to confirm the truth of her charges.”²⁴

AAA’s testimonies on the two rape incidents were impressively straightforward and categorical. In April of 2001, while in the farm up in the mountain, the accused-appellant threatened her with death. Against her will, he succeeded in having carnal knowledge of her. In her statements regarding the second rape incident on August 26, 2003, AAA did not mention that the accused-appellant threatened to kill her. Nonetheless, the accused-appellant’s moral ascendancy over AAA takes the place of the force and intimidation that is required in rape cases.²⁵ It is expected that for a minor like AAA, fear and memories from her previous harrowing experience already loomed over her. They were more than enough to cow her to submission at the time of the second rape incident. This is especially true here where the accused-appellant is AAA’s own godfather and *de facto* guardian.

In the physical examination performed after the second rape incident, Dr. Sumabat found lacerations in AAA’s hymen. The accused-appellant alleged that there were inconsistencies in the dates of the commission of the crime, on one hand, and the conduct of the physical examination, on the

²³ Id. at 117-118.

²⁴ *People of the Philippines v. Hermenigildo Delen y Esco Billa*, supra note 19, citing *People v. Oden*, 471 Phil. 638, 667 (2004).

²⁵ Id.

other. However, this stance, taken together with the accused-appellant's uncorroborated defenses of denial and *alibi*, pales *vis-à-vis* AAA's positive testimony and the medical evidence which prove that, indeed, AAA's hymen sustained lacerations, albeit healed. As we held in *People v. Laog*,²⁶

Discrepancies referring only to minor details and collateral matters—not to the central fact of the crime—do not affect the veracity or detract from the essential credibility of witnesses' declarations, as long as these are coherent and intrinsically believable on the whole. For a discrepancy or inconsistency in the testimony of a witness to serve as a basis for acquittal, it must establish beyond doubt the innocence of the appellant for the crime charged. It cannot be overemphasized that the credibility of a rape victim is not diminished, let alone impaired, by minor inconsistencies in her testimony.²⁷ (Citations omitted)

The Court agrees with the CA's findings that only the generic aggravating circumstances of commission of the crime in an uninhabited place and minority can be appreciated relative to the first rape incident. As regards the second rape incident, guardianship was alleged in the information²⁸ and was not assailed by the defense. The Court notes, too, that the parties stipulated during the pre-trial that the accused-appellant was AAA's godfather.²⁹ Notwithstanding the foregoing, jurisprudence strictly dictates that the guardian must be a person who has a legal relationship with his ward,³⁰ which does not obtain in the case before this Court. Ineluctably, guardianship cannot be considered as a qualifying circumstance and the accused-appellant can only be convicted of simple rape.

Nonetheless, this Court sustains the penalty of *reclusion perpetua* imposed by the RTC and CA on the accused-appellant for each of the two counts of rape which he committed. The aggravating circumstances of minority³¹ and commission of the crime in an uninhabited place were present as regards the first rape incident. The second rape was, on the other hand, aggravated by minority alone since legal guardianship was not proven. The aggravating circumstances attendant in the instant case are all merely generic and not qualifying. Generic aggravating circumstances increase the penalty for the crime to its maximum period, but it cannot increase the same

²⁶ G.R. No. 178321, October 5, 2011, 658 SCRA 654.

²⁷ Id. at 671.

²⁸ CA *rollo*, p. 15.

²⁹ Id.

³⁰ *People v. Flores*, G.R. No. 188315, August 25, 2010, 629 SCRA 478, 493.

³¹ AAA was 11 and not 14 years old when the first rape incident occurred. However, the case does not fall under Article 266-A(1)(d) of the Revised Penal Code punishing rape perpetrated against victims who are under 12 years of age, because the information filed in court alleged that AAA was 14 years old. To the accused-appellant pertains the inviolable right to be informed of the nature and cause of the accusation against him (Please see *People v. Arcillas*, G.R. No. 181491, July 30, 2012, 677 SCRA 624, 637).

to the next higher degree.³² In the accused-appellant's case, the two counts of rape were committed through the use of force and intimidation. The crime falls under Article 266-A(1)(a) of the Revised Penal Code. Article 266-B of the same code provides that the said crime is punishable by *reclusion perpetua*, which is an indivisible penalty. Therefore, despite the attendance of generic aggravating circumstances, the penalty imposable upon the accused-appellant for each count of rape remains the same.

In précis, the Court finds no compelling ground to reverse the accused-appellant's conviction for two counts of simple rape by both the RTC and the CA. The Court likewise finds proper the CA's modification of the amount of civil indemnity and damages imposed by the RTC. However, to conform to prevailing jurisprudence, an interest of six percent (6%) *per annum* on all the damages awarded shall be imposed, to be computed from the date of the finality of this judgment until fully paid.³³

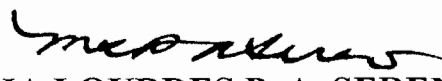
IN VIEW OF THE FOREGOING, the Decision of the Court of Appeals dated October 8, 2012, in CA-G.R. CR-HC No. 04149, is **AFFIRMED** with **MODIFICATION** that Virgilio Antonio y Rivera is directed to pay interest at the rate of six percent (6%) *per annum* on all the damages awarded to AAA, to be computed from the date of the finality of this judgment until fully paid.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice


WE CONCUR:




MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

³² *People v. De Leon*, 608 Phil. 701, 723 (2009), citing *Palaganas v. People*, 533 Phil. 169, 194 (2006).

³³ *People v. Cruz*, G.R. No. 201728, July 17, 2013, 701 SCRA 548, 559-560.

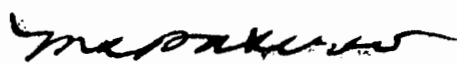

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice

