

*People v. Alfredo Bon:* \*

## **The Exclusion of the Death Penalty from the Graduation of Criminal Penalties**

The penalty of death, as provided for in Article 71 of the Revised Penal Code, will no longer be included in the graduation of criminal penalties. This determination was arrived upon by the Supreme Court in a 53-page Decision penned by Justice Dante O. Tinga. In that ruling, the Court affirmed with modification the conviction of Alfredo Bon for the rapes and attempted rapes of his two minor nieces.

It held in that case that it could not find any “basis to conclude that Republic Act 9346 intended to retain the operative effects of the death penalty in the graduation of the other penalties in our laws.”

### **The Facts**

The trial court found Appellant Alfredo Bon guilty of eight counts of rape, in which the victims were his two nieces, and meted out to him eight death sentences. The Court of Appeals upheld six, and downgraded two, of the rape convictions. For each of these two counts, it imposed a reduced indeterminate penalty of 10 years of *prision mayor*, as minimum, to 17 years and four months of *reclusion temporal* as

maximum.

## **The Issue**

Two critical issues emerged in this case. The *first* concerned the question of whether the Court should affirm the conviction of Bon for six counts of rape and two counts of attempted rape, the victims being his then minor nieces. The *second* issue involved a review of the maximum term of *reclusion temporal* in the sentence imposed by the CA on Bon for the two counts of attempted rape. It had prescribed this sentence prior to the enactment of Republic Act 9346, which ended the imposition of the death penalty in the Philippines.

The proximate concern as regards respondent was whether the penalty for attempted qualified rape should be computed from death or from *reclusion perpetua*. Under the penal law, the penalty for this crime should be two degrees lower than that for consummated qualified rape.

## **The Court's Ruling**

On the first issue, the Court affirmed the conclusions of the Court of Appeals. The High Court said that it had been established beyond reasonable doubt that

appellant was guilty of six (6) counts of rape and two (2) counts of attempted rape.

However, in the light of Republic Act 9346, entitled “An Act Prohibiting the Imposition of Death Penalty in the Philippines,” the appropriate penalties for both crimes should be amended.

Section 2 of this law mandates that, in lieu of the death penalty, the penalty of *reclusion perpetua* should be imposed. Correspondingly, the Court could no longer uphold the death sentences imposed by lower courts. If the guilt of the accused is affirmed, it must instead impose the penalty of *reclusion perpetua* or life imprisonment, whenever appropriate.

The Court said that “the negation of the word ‘death’ as previously inscribed in Article 71 will have the effect of appropriately downgrading the proper penalties attaching to accomplices, accessories, frustrated and attempted felonies to the level consistent with our penal laws.” It maintained that if Republic Act 9346 was to be construed in such a way as to limit its effects only to matters concerning the physical imposition of the death penalty, an anomalous situation would arise. Under this interpretation, the penalties for the principals and the accomplices would be equalized in certain felonies, but not in others.

The Court pointed out that Republic Act 9346 did not explicitly state that the

proscription of the death penalty engendered no corresponding modification of other penalties. Otherwise, it would have acknowledged that inequities and inconsistencies had formed part of the legislative intent, when in fact they had not. It held that Section 1 of the law was susceptible to a reading that would harmonize its effects with the precepts and practices that pervaded our general penal laws, and in a manner that did not defy the clear will of Congress.

The Court also clarified that the prohibition against the death penalty did not result in the reclassification of those crimes previously defined as “heinous.” It underscored the fact that the amendatory effects of the law pertained only to the application of the death penalty, not to the classification of felonies. Thus, it held that the law did not serve as a basis for the reduction of civil indemnity and other damages that adhered to heinous crimes.

The Supreme Court conceded that it had no choice but to adhere to Article 22 of the Revised Penal Code and to extend the retroactive benefits of the enactment of Republic Act 9346 to persons previously convicted of capital offenses (except habitual criminals). It stressed, though, that “this decision [did] not make operative the release of such convicts,” as there were other remedies under the law that could be utilized to secure their reasonable release.

In closing, Alfredo J. Bon's penalty for each of the six counts of rape was reduced by the Court to *reclusion perpetua*. For each of the two counts of attempted rape, the penalty imposed by the Court of Appeals was downgraded by one degree to *prision mayor*, imposed in its medium period, since there was no mitigating or aggravating circumstances. Consequently, his penalty for each of the two counts of attempted rape was reduced to a minimum two years, four months and one day of *prision correccional*, to a maximum of eight years and one day of *prision mayor*. He was also ordered to pay the victims civil indemnity, moral damages, and exemplary damages.

---

\*  
— GR No. 166401 (formerly GR Nos. 158660-67, October 30, 2006, per Tinga, *J.*