



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated September 28, 2022, which reads as follows:*

“G.R. No. 252671 (*People of the Philippines v. XXX*<sup>1</sup>). — On appeal<sup>2</sup> is the October 29, 2019 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11432 which affirmed with modification the May 3, 2018 Judgment<sup>4</sup> of the Regional Trial Court (RTC), Branch 226 of [REDACTED] [REDACTED]<sup>5</sup> in Case No. R-QZN-16-10098-CR finding accused-appellant XXX guilty of Rape under Article 266-A of the Revised Penal Code (RPC).

**Factual Antecedents**

On September 13, 2016, accused-appellant was charged with Rape in an Information<sup>6</sup> which reads:

That on or about the 8<sup>th</sup> of September, 2016, in [REDACTED], Philippines, the above-named accused, with lewd design, by means of force, intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge

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<sup>1</sup> Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 entitled “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.”

<sup>2</sup> *Rollo*, pp. 23-24.

<sup>3</sup> *Id.* at 3-21. Penned by Associate Justice Louis P. Acosta, and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Nina G. Antonio-Valenzuela.

<sup>4</sup> *Id.* at 41-49. Penned by Presiding Judge Manuel B. Sta. Cruz, Jr.

<sup>5</sup> Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

<sup>6</sup> Records, pp. 1-2.

of one [AAA],<sup>7</sup> against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.<sup>8</sup>

Upon arraignment, accused-appellant pleaded “not guilty.”<sup>9</sup> Trial then ensued.

Accused-appellant worked as a helper at a construction site near the house of the victim AAA, a mental retardate. On September 8, 2016, at around 11:00 a.m., accused-appellant went to AAA’s house and invited her to go with him to a grocery store to which the latter agreed. Upon their return to the victim’s house, accused-appellant went inside. He then started to kiss her on the lips and neck, and hugged her. Afterwards, accused-appellant took off AAA’s shorts and underwear, and licked her vagina. He then pulled down his pants and inserted his penis inside her vagina. AAA resisted and told accused-appellant to stop but the latter continued with his bestial act. Afterwards, he rested, kissed and gave AAA a biscuit, and left.<sup>10</sup>

In the afternoon of the said date, BBB, AAA’s mother, was looking for a dress for AAA when she saw a biscuit inside her daughter’s dresser. She then asked her daughter who gave her the biscuit. AAA replied that it was given to her by accused-appellant after he raped her. BBB was shattered by what happened. She immediately reported the incident to the *barangay* authorities and to the police. AAA was then sent to the crime laboratory for examination.<sup>11</sup>

The Initial Medico-Legal Report<sup>12</sup> prepared by Medico-Legal Officer Police Chief Inspector Annalee C. Palima, (PCI Palima) showed a recent blunt penetrating trauma in the hymen of AAA. There were also deep healing lacerations in the same. PCI Palima further recommended that AAA be referred to a psychiatrist for evaluation.<sup>13</sup>

Dr. Nedy Tayag (Dr. Tayag), a psychiatrist, thus examined AAA and found her to be suffering from moderate mental health retardation with a

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<sup>7</sup> “The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004.” (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

<sup>8</sup> Records, p. 1.

<sup>9</sup> Id. at 49-50.

<sup>10</sup> *Rollo*, pp. 4-5.

<sup>11</sup> Id. at 5.

<sup>12</sup> Records, p. 10.

<sup>13</sup> Id.

mental age of between 5 to 6 years old.<sup>14</sup>

Accused-appellant denied raping AAA. He claimed that they are sweethearts for three months and had been engaged in consensual sexual intercourse. He also averred that they did not have sex on the date of the incident. Lastly, accused-appellant argued that it was AAA's mother who caused his arrest as she was against their relationship.<sup>15</sup>

### **Ruling of the Regional Trial Court**

In its May 3, 2018 Judgment,<sup>16</sup> the RTC found accused-appellant guilty of the crime charged, to wit:

**WHEREFORE**, the prosecution having proved the GUILT of the accused [XXX] beyond reasonable doubt, this Court finds the accused **GUILTY** and is hereby **CONVICTED** of raping the private complainant in violation of Article 266-A of the Revised Penal Code and is thereby condemned to suffer the penalty of *reclusion perpetua* and to pay the private complainant ₱50,000 as civil indemnity, ₱50,000 as moral damages and ₱30,000 as exemplary damages.

SO ORDERED.<sup>17</sup>

The RTC found the testimony of AAA that she was raped and that accused-appellant was her perpetrator worthy of belief. The fact that she was raped was confirmed by the medico-legal report. Thus, her positive identification overruled the defense of denial proffered by the accused-appellant.<sup>18</sup>

Further, accused-appellant's defense that he and AAA were sweethearts was not substantiated by any documentary evidence such as tokens, mementos, and photographs to prove the same. Besides, even though it was indeed true, the trial court opined that it was not a license for accused-appellant to rape AAA.<sup>19</sup>

Lastly, the RTC pronounced that accused-appellant's knowledge of her mental disability cannot be applied as a qualifying circumstance in the crime of rape as it was not specifically alleged in the information. Hence, although it was duly proven during the trial that AAA was a mental retardate, accused-appellant was only found guilty of Simple Rape.<sup>20</sup>

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<sup>14</sup> *Rollo*, p. 6.

<sup>15</sup> *Id.* at 6-7.

<sup>16</sup> *CA rollo*, pp. 41-49.

<sup>17</sup> *Id.* at 49.

<sup>18</sup> *Id.* at 45.

<sup>19</sup> *Id.* at 46-47.

<sup>20</sup> *Id.* at 48.



Aggrieved, accused-appellant appealed before the CA.

### **Ruling of the Court of Appeals**

In its October 29, 2019 Decision,<sup>21</sup> the CA affirmed the findings of the RTC but modified the amount of damages it awarded to AAA. The *fallo* of the assailed Decision reads:

**ACCORDINGLY**, the appeal is **DISMISSED**. The Judgment dated May 3, 2018 of the Regional Trial Court[,] Branch 226 of [REDACTED], in Criminal Case No. R-QZN-16-10089-CR, is **AFFIRMED WITH MODIFICATION** in light of the court *a quo*'s error as to the amount of damages awarded to herein private complainant. The dispositive portion of the said Judgment is modified to read as follows:

**WHEREFORE**, the prosecution having proved the **GUILT** of the accused [XXX] beyond reasonable doubt, this Court finds the accused **GUILTY** and is hereby **CONVICTED** of raping the private complainant in violation of Article 266-A of the Revised Penal Code and is thereby condemned to suffer the penalty of *reclusion perpetua* and to pay the private complainant **Php75,000.00** as civil indemnity, **Php75,000.00** as moral damages and **Php75,000.00** as exemplary damages.

SO ORDERED.

**IT IS SO ORDERED.**<sup>22</sup>

Hence, the instant appeal.

### **Issue**

The issue for Our resolution is whether accused-appellant's guilt was proven beyond reasonable doubt.

### **Our Ruling**

The appeal is bereft of merit.

Art. 266-A of the RPC, as amended by Republic Act No. (RA) 8353,<sup>23</sup> otherwise known as the "Anti-Rape Law of 1997," states:

ART. 266-A. *Rape; When and How Committed.* — Rape is committed.

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<sup>21</sup> *Rollo*, pp. 3-21.

<sup>22</sup> *Id.* at 20-21.

<sup>23</sup> Entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 9815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES." Approved on September 30, 1997.

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat or intimidation;
  - b) When the offended party is deprived of reason or otherwise unconscious;
  - c) By means of fraudulent machination or grave abuse of authority;
- and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

The prosecution must sufficiently establish that: “(1) the offender had carnal knowledge of a woman, (2) through force or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.”<sup>24</sup>

In *People v. Tablang*,<sup>25</sup> the Court held that carnal knowledge of a woman who is a mental retardate is rape.<sup>26</sup> This is because she is in the same class as a woman deprived of reason or otherwise unconscious.<sup>27</sup> It is not necessary to prove force or intimidation when the victim is a mental retardate since she is incapable of giving consent to a sexual act.<sup>28</sup> What must only be proved is the sexual congress between accused-appellant and the victim, and the latter’s mental retardation.<sup>29</sup>

In this case, Dr. Tayag confirmed that AAA has a moderate mental health retardation with a mental age between 5 to 6 years old.<sup>30</sup> As such, although she can explain what happened to her, she can never fully understand its implications.<sup>31</sup> The trial court even observed AAA’s behavior during the trial proving that she is indeed suffering from a mental disability.<sup>32</sup> The observation of the trial court judge, together with the assessment of an expert witness, indubitably confirms the mental retardation of the victim.<sup>33</sup>

Despite being mentally handicapped, AAA positively identified accused-appellant as the person who ravished her. She categorically narrated how she was raped by the accused-appellant in her Judicial Affidavit.<sup>34</sup> To recall, AAA stated that accused-appellant invited her to go with him to a store on the date of the incident. When they got home, accused-appellant suddenly kissed her in the lips and neck. He removed her shorts and underwear and licked her

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<sup>24</sup> *People v. Suansing*, 717 Phil. 100, 109 (2013), citing *People v. Tablang*, 619 Phil 757, 766 (2009).

<sup>25</sup> *Supra*.

<sup>26</sup> *Id.* at 766-767, citing *People v. Dela Paz*, 569 Phil. 684, 699 (2008) and *People v. Pagsanjan*, 442 Phil 667, 680 (2002).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *People v. Dela Paz*, *supra*.

<sup>30</sup> TSN, October 5, 2017, p. 3; records, pp. 114-115.

<sup>31</sup> TSN, October 5, 2017, p. 4.

<sup>32</sup> *Rollo*, p. 48.

<sup>33</sup> *People v. Bacaling*, 447 Phil. 197, 204 (2003).

<sup>34</sup> Records, pp. 74-76.

vagina. Thereafter, accused-appellant pulled down her shorts and went on top of AAA. The latter tried to resist his advances but accused-appellant still inserted his penis in her vagina.

AAA still managed to reiterate her narration during the trial in this wise:

Q: Tapos nung araw na yon, sabi mo kumatok siya sa bahay niyo. Tapos niyaya ka niyang pumunta ng?

A: Hypermart.

Q: Ano yung Hypermart?

A: Mall po.

Q: Mall. So sumama ka sa kanya tama sa mall? Hypermart?

A: Opo.

Q: Nung sumama ka sa kanya, kasi may tiwala ka sa kanya tama?

A: Opo.

Q: Kasi matagal mo na siyang nakakausap diba, tama?

A: Opo.

COURT:

Q: [AAA], anong ginawa niya sayo?

A: Ginalaw po.

Q: So papano ka ginalaw?

A: Sa loob ng bahay po.

Q: Sa loob ng bahay niyo. Anong ginawa niya sayo?

A: Pumatong po siya sa akin.

Q: Ano pang ginawa niya?

A: Hinalikan.

Q: Pinasok niya ang ari niya sa ari mo?

A: Opo.

Q: Gusto mo ba yung ginawa niya sayo?

A: Hindi po.

Q: Anong sinabi mo nung pinasok niya yung ari niya sayo?

A: Pinigilan ko po siya.

Q: Pinigilan mo siya. Sinubukan mo siyang pigilan?

A: Opo.

Q: Papano mo siya pinigilan?

A: Masama po kasi yung (inaudible)

Q: Masama?

A: Opo.<sup>35</sup>

The Court finds no inconsistencies in the testimony of AAA. Indeed, her testimony during the trial was not as detailed as compared to her Judicial Affidavit. Still, the fact that accused-appellant committed bestial acts against AAA, a mental retardate, through force and intimidation remains uncontroverted.

AAA's mental disability does not diminish her credibility as a witness. She was able to recount her harrowing experience in a straightforward and spontaneous manner despite difficulty in expressing herself. Her testimony was likewise duly supported by the medico-legal findings showing lacerations on her private part. Clearly, her assertion that she was raped was not fabricated. Her testimony was neither rehearsed nor coached by any person so as to implicate accused-appellant. Thus, the RTC's assessment of her credibility as a witness, especially when affirmed by the CA, deserves great respect since it had the opportunity to personally examine her deportment or conduct during the trial.<sup>36</sup> As aptly held in *People v. Martinez*:<sup>37</sup>

Suffice it to say, in *People v. Quintos*, the Court, citing *People v. Monticalvo*, explained that the victim's mental condition does not by itself make her testimony incredible, as long as she can recount her experience in a straightforward, spontaneous, and believable manner, to wit:

Competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it is shown that they can communicate their ordeal capably and consistently. Rather than undermine the gravity of the complainant's accusations, it even lends greater credence to her testimony, that, someone as feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact suffered such crime at the hands of the accused.

Moreover, it is settled that the victim's intellectual disability does not make her testimony unbelievable, especially when corroborated by other evidence. In this regard, AAA's testimony that she was suddenly dragged out of her home by Martinez was corroborated by her son BBB. Furthermore, AAA became pregnant as a result of the rape, and Martinez acknowledged that he was the father of the child, and even offered to support the child. This is clearly an admission that he engaged in sexual intercourse with AAA.<sup>38</sup> (Citations omitted)

Interestingly, accused-appellant admitted having sexual intercourse several times with AAA but claimed that these were consensual as they are sweethearts. We are not persuaded.

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<sup>35</sup> TSN, April 17, 2017, pp. 7-8.

<sup>36</sup> *People v. Tablang*, supra note 24 at 770.

<sup>37</sup> 827 Phil. 410 (2018).

<sup>38</sup> Id. at 524.

Jurisprudence dictates that being sweethearts is not a defense especially if the victim is a mental retardate.<sup>39</sup> Considering “the victim’s deficient state of mind, she could not have induced her assailant to nurse a desire to have her for a sweetheart, nor could she have possessed the capacity to understand the meaning of such a relationship.”<sup>40</sup> Thus, left with no exculpating defense, accused-appellant’s admission of engaging in sexual intercourse with AAA only proves his guilt of the rape charge.<sup>41</sup>

Accused-appellant did not also offer evidence such as mementos, love letters, photographs, and the like which could have proved that they were indeed lovers.<sup>42</sup> Besides, assuming that accused-appellant and AAA were indeed sweethearts, their relationship is not an excuse for him to employ force and intimidation just to gratify his carnal desires.<sup>43</sup>

The Court also finds it unbelievable for accused-appellant not to notice that AAA is suffering from a mental disability. He knew AAA for a time now. He often went to the victim’s house. He had every opportunity to observe her demeanor especially since his workplace was near her home. Further, the trial court judge even observed AAA’s behavior during the trial which showed that she was a mental retardate. Thus, it only shows that the victim’s mental disability is clearly apparent which makes it highly impossible for accused-appellant not to notice.

Indubitably, the Court is convinced that accused-appellant raped AAA through force and intimidation. Nevertheless, We correct the designation of the offense charged.

In the recent case of *People v. Castillo*,<sup>44</sup> We held that:

[W]hen the victim is a mental retardate whose mental age is that of a person below 12 years old, the rape should be classified as statutory rape under Article 266-A, paragraph 1 (d) of the RPC, as amended.

Statutory rape is committed when (1) the offended party is under twelve (12) years of age, and (2) the accused had carnal knowledge of her, regardless of whether there was force, threat or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority. What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only pertinent concern is the age of the woman and whether carnal knowledge indeed took place. (Citation omitted)

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<sup>39</sup> *People v. Bacaling*, supra note 33 at 206.

<sup>40</sup> Id.

<sup>41</sup> Id.

<sup>42</sup> *People v. Belo*, 637 Phil. 514, 525 (2010).

<sup>43</sup> Id. at 526.

<sup>44</sup> G.R. No. 242276, February 18, 2020.

Here, it was duly established that AAA has a mental age of 5 to 6 years old and that accused-appellant had carnal knowledge of her through force and intimidation. Hence, accused-appellant is guilty of Statutory Rape under Art. 266-A, paragraph 1(d) of the RPC.

Although it was established during trial that AAA is a mental retardate and accused-appellant was aware thereof at the time of the commission of the offense, these circumstances were not alleged in the information. Thus, accused-appellant's knowledge of AAA's mental disability during the commission of rape cannot be treated as a qualifying circumstance under Article 266-B<sup>45</sup> of the RPC so as to impose the maximum penalty.<sup>46</sup> That the victim's mental retardation, or accused-appellant's knowledge thereof, was subsequently brought into evidence, will not amend the charge laid out in the information thus precluding the conviction of the accused-appellant for Qualified Rape.<sup>47</sup>

On the award of damages, the Court finds the awards of civil indemnity, moral damages, and exemplary damages in the amount of ₱75,000.00 each to be in accordance with the prevailing jurisprudence.<sup>48</sup> The Court, however, finds it proper that these amounts shall earn a six percent (6%) interest per *annum* from finality of this judgment until fully paid.<sup>49</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The October 29, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11432 is **AFFIRMED with MODIFICATIONS**. Accused-appellant XXX is found **GUILTY** beyond reasonable doubt of Statutory Rape under Article 266-A, paragraph 1 (d) of the Revised Penal Code. He is thus sentenced to suffer the penalty of *reclusion perpetua* and to pay AAA the following: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages. The monetary awards shall earn six percent (6%) interest per *annum* from finality of this Resolution until fully paid.

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<sup>45</sup> Article 266-B. *Penalty*. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

x x x x

10) 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.

<sup>46</sup> *People v. Toralba*, 414 Phil. 793, 804-805 (2001).

<sup>47</sup> *People v. Toralba*, *supra*.

<sup>48</sup> *People v. Jugueta*, 783 Phil. 806, 849 (2016).

<sup>49</sup> *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).



**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *SIBULO*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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OCT 13 2022

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Manila  
(CA-G.R. CR-HC No. 11432)

The Hon. Presiding Judge  
Regional Trial Court, Branch 226  
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(Crim. Case No. R-QZN-16-10098-CR)

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