



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 248997
PHILIPPINES,
Plaintiff-Appellee,

- versus -

EDUARDO CERICOS, JR. y
OBIASCA a.k.a. "JR,"
Accused-Appellant.

Present:
LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., JJ.

Promulgated:

SEP 05 2022

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DECISION

KHO, JR., J.:

Assailed in this ordinary appeal¹ is the Decision² dated May 29, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09455, which affirmed *in toto* the Decision³ dated May 15, 2017 of the Regional Trial Court of Manila, Branch 5 (RTC), finding accused-appellant Eduardo Cericos, Jr. y Obiasca a.k.a. "JR" (Cericos) guilty beyond reasonable doubt of four (4) counts of Rape, as defined and penalized under Article 266-A(1)(a), in relation to Article 266-B of the Revised Penal Code⁴ (RPC), as amended.

¹ See Notice of Appeal dated June 27, 2019, *rollo*, pp. 15–16.

² *Id.* at 3–14. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Marlene B. Gonzales-Sison and Ruben Reynaldo G. Roxas.

³ *CA rollo*, pp. 48–75. Penned by Presiding Judge Emily L. San Gaspar-Gito.

⁴ Entitled "AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS," approved on December 8, 1930.

The Facts

This case stemmed from five (5) Informations⁵ filed before the RTC, charging Cericos of four (4) counts of Rape and one (1) count of Forcible Abduction with Rape, the accusatory portions of which read:

Criminal Case No. 16-328295
(Forcible Abduction with Rape)

That around midday of August 18, 2016, in the City of Manila, Philippines, the said accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously take and carry away AAA[248997],⁶ 15 years old minor, without her intelligent consent, and brought her to the house of the accused located at [REDACTED], this City, where the latter, by means of force, violence, and intimidation had carnal knowledge of said AAA[248997].

Contrary to law.⁷

Criminal Case No. 16-328296
(Rape)

That in the evening of August 18, 2016, in the City of Manila, Philippines, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge of one AAA[248997], a 15 year old minor, by then and there taking off her clothes and inserting his penis inside her vagina, against the will and without the intelligent consent of the said AAA[248997].

Contrary to law.⁸

Criminal Case No. 16-328297
(Rape)

That in the morning of August 19, 2016, in the City of Manila, Philippines, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge of one AAA[248997], a 15 year old minor, by then and there kissing her breasts, licking her vagina, and then inserting his penis inside

⁵ See CA *rollo*, pp. 50–51.

⁶ 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 RA 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992; RA 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “Rule on Violence against Women and Their Children” (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, 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,” dated September 5, 2017.)

⁷ CA *rollo*, p. 50.

⁸ *Id.*

her vagina, against the will and without the intelligent consent of the said AAA[248997].

Contrary to law.⁹

Criminal Case No. 16-328298

(Rape)

That around midday of August 19, 2016 in the City of Manila, Philippines, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge of one AAA[248997], a 15 year old minor, by then and there kissing her breasts, licking her vagina, and then inserting his penis inside her vagina, against the will and without the intelligent consent of the said AAA[248997].

Contrary to law.¹⁰

Criminal Case No. 16-328299

(Rape)

That on or about August 20, 2016, in the City of Manila, Philippines, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge of one AAA[248997], a 15 year old minor, by then and there kissing her breasts, licking her vagina, and then inserting his penis inside her vagina, against the will and without the intelligent consent of the said AAA[248997].¹¹

The prosecution alleged that AAA248997 met Cericos on social media. At around 3:00 a.m. of August 18, 2016, AAA248997 surreptitiously left their house and went to Tanay, Rizal to personally meet Cericos. After they met, Cericos brought AAA248997 to his house in [REDACTED], Manila. Thereat, they first had a meal, and thereafter, Cericos asked AAA248997 to undress. When AAA248997 refused, Cericos forcibly undressed AAA248997 and had carnal knowledge of her despite the latter's active resistance and protestations (subject of **Criminal Case No. 16-328295**). Later that afternoon, AAA248997 escaped from Cericos' house but got lost in the process due to her unfamiliarity with the area. When Cericos' sister-in-law saw her, she was brought back to the house. On the night of even date, Cericos again forcibly undressed AAA248997 while the latter tried to push him away, but she was unsuccessful because her left arm was already aching. Cericos then licked her breast, inserted his penis into her vagina, and satisfied his bestial desires until he went to sleep. According to AAA248997, she could only cry in silence while Cericos was sleeping as she feared that Cericos would get angry and do worse things to her (subject of **Criminal Case No. 16-328296**).¹²

⁹ Id. at 50–51.

¹⁰ Id. at 51.

¹¹ Id.

¹² See *rollo*, pp. 3–5. See also *CA rollo*, pp. 52–57.

ATCO

The next morning, or on August 19, 2016, Cericos again had carnal knowledge of AAA248997 by again forcibly undressing her despite her resistance, licking her vagina, and inserting his penis into her vagina (subject of **Criminal Case No. 16-328297**). However, AAA248997 could no longer remember if they had sexual intercourse at midday of the same day after lunch time (subject of **Criminal Case No. 16-328298**).¹³

On August 20, 2016, Cericos' brother arrived in the house and had a drinking session with him, with AAA248997 joining them. After the brother went home, Cericos again took advantage of the then-inebriated AAA248997 and had sexual intercourse with her against her will (subject of **Criminal Case No. 16-328299**).¹⁴

Meanwhile, AAA248997's guardian, BBB248997 and sister, CCC248997, discovered at 6:00 a.m. of August 18, 2016 that the former was missing. Initially, BBB248997 and CCC248997 frantically looked for AAA248997 in their subdivision, but to no avail. After they found out that AAA248997 went to Cericos, they opened AAA248997's social media account and was able to communicate with someone related to Cericos. They were able to convince Cericos to bring AAA248997 to the barangay hall of [REDACTED], Manila where AAA248997 was reunited with them.¹⁵

At the barangay hall, AAA248997 pointed to Cericos as the one who raped her, prompting barangay officials as well as police officers to take AAA248997 and Cericos to the police station for blotter and investigation purposes. AAA248997 was also taken to a Medico-Legal Officer, Dr. Riza Lorenzana, whose findings indicate "*laceration with surrounding bruise at 8 o'clock position. Anogenital findings are indicative of blunt force or penetrating trauma. Intellectual disability versus Learning disorder. Referred to a developmental pediatrician for further evaluation and management.*"¹⁶ Thereafter, AAA248997 was referred to a development pediatrician, Dr. Stella Manalo, for developmental assessment, who then confirmed that AAA248997 is suffering from "*Intellectual Disability from mild to moderate*"¹⁷ and has a mental age of a two (2)-year old person, taking into account the results of her examination.¹⁸

On cross-examination, AAA248997 admitted that: (a) Cericos is her social media boyfriend; (b) he told her to bring clothes as they will live as husband and wife and that he promised to marry her when she turns 20 years old; and (c) he did not force or threaten her to go to his house. However, on

¹³ See CA rollo, p. 54.

¹⁴ See id. at 54-55.

¹⁵ See rollo, p. 5 and CA rollo, p. 55.

¹⁶ See CA rollo, p. 57.

¹⁷ See id.

¹⁸ See id. at 55-58.

re-direct, AAA248997 clarified that while Cericos is indeed his social media boyfriend, it is different from a real-life boyfriend.¹⁹

In defense, Cericos invoked the defenses of denial and “sweetheart theory.” He maintained that AAA248997 is her girlfriend, and she asked him to fetch her in Tanay, Rizal. Upon his arrival thereat, he was surprised to see AAA248997 carrying three (3) bags full of clothes and she allegedly told him that she wanted to go with him. According to Cericos: (a) he initially refused because AAA248997’s family might get mad at him, but she retorted that her family would hurt her, and thus, he made a judgment call to just bring AAA248997 to his house in [REDACTED]; (b) when they got home, he even introduced AAA248997 as his girlfriend to his siblings; (c) he and AAA248997 indeed had sexual intercourse multiple times, which the latter instigated by kissing him; and (d) he brought AAA248997 to the barangay hall because he learned that BBB248997 was planning to file a kidnapping case against him, and AAA248997 reassured him that she will execute a statement saying that she voluntarily went with him. Finally, Cericos claimed that the rape charges were merely instigated by BBB248997 because the latter disapproved of their relationship as he only earns little as a worker at a vulcanizing shop.²⁰

The RTC Ruling

In a Decision²¹ dated May 15, 2017, the RTC ruled as follows: (a) in **Criminal Case No. 16-328295**, Cericos was found guilty beyond reasonable doubt of the crime of Rape, instead of Forcible Abduction with Rape, and accordingly, he was sentenced to suffer the penalty of *reclusion perpetua*, and to pay AAA248997 the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) from the date of finality of the ruling until full payment; (b) in **Criminal Case Nos. 16-328296, 16-328297, and 16-328299**, Cericos was found guilty beyond reasonable doubt of the crime of Rape, and accordingly, he was sentenced to suffer the penalty of *reclusion perpetua* for each count, and to pay AAA248997 the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) from the date of finality of the ruling until full payment, for each count; and (c) in **Criminal Case No. 16-328298**, Cericos was acquitted on the ground of insufficiency of evidence.²² Cericos was also ordered to pay the cost of suit in each case.

¹⁹ See *rollo*, p. 4

²⁰ See *id.* at 7. See also *CA rollo*, pp. 57–59.

²¹ *CA rollo*, pp. 48–75.

²² See *id.* at 74–75.

In so ruling, the RTC found that the prosecution had sufficiently established that Cericos had carnal knowledge of AAA248997 on four (4) different occasions (subject of **Criminal Case Nos. 16-328295, 16-328296, 16-328297, and 16-328299**), and that he used force, violence, or intimidation to achieve his criminal intent. The RTC did not lend credence to Cericos' invocation of the "sweetheart theory," as AAA248997 positively testified that the repeated incidents of sexual intercourse were never consensual, as may be evinced by Cericos' acts of forcibly undressing her and inserting his penis into her vagina despite her protestations and physical resistance. According to the RTC, the finding that the incidents of sexual intercourse were not consensual is further buttressed by the fact that AAA248997 is a mental retardate, and hence, AAA248997 could not have validly consented to such incidents of sexual congress. However, as regards **Criminal Case No. 16-328298**, the RTC was constrained to acquit Cericos, considering that AAA248997 failed to narrate the occurrences pertaining to the purported rape incident that occurred in the midday of August 19, 2016.²³

Aggrieved, Cericos appealed to the CA.

The CA Ruling

In a Decision²⁴ dated May 29, 2019, the CA affirmed the RTC ruling *in toto*. Essentially affirming the RTC's findings, the CA held that the prosecution had established beyond reasonable doubt that Cericos indeed had carnal knowledge of AAA248997 without her consent on four (4) separate occasions. The CA likewise rejected Cericos' invocation of the "sweetheart theory" on the ground that other than his bare testimony, there was nothing on record that would support his claim that he and AAA248997 were lovers. In this regard, the CA opined that even assuming *arguendo* that Cericos and AAA248997 are indeed lovers, this does not negate the commission of Rape because such fact does not give Cericos the license to have sexual intercourse with AAA248997 without her consent.²⁵

Hence, this appeal.²⁶

The Issue Before the Court

The issue before the Court is whether or not Cericos is guilty beyond reasonable doubt of four (4) counts of Rape.

²³ See *id.* at 59–74.

²⁴ *Rollo*, pp. 3–14.

²⁵ See *id.* at 9–13.

²⁶ See Notice of Appeal dated June 27, 2019; *id.* at 15–16.

The Court's Ruling

The appeal is denied.

Article 266-A (1) of the RPC, as amended, reads:

Article 266-A. Rape: *When and How Committed*. – Rape is committed:

(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.

Under this provision, “the elements of rape are: (a) the offender had carnal knowledge of the victim; and (b) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under twelve years of age.”²⁷

In this case, the Court finds that both the RTC and the CA correctly ruled that through AAA248997’s straightforward, credible, and trustworthy testimony, it has been established beyond reasonable doubt that Cericos indeed took her to his house, and thereat, had carnal knowledge of her on four (4) different occasions without her consent. Moreover, Cericos was able to satisfy his bestial desires in these occasions by employing force, violence, and/or intimidation on AAA248997, as evinced by the latter’s assertions that Cericos would forcefully undress her, do lewd acts to her such as kissing her breasts and licking her vagina, and finally, inserting his penis into her vagina, all despite her active protestations and physical resistance. As aptly pointed out by the RTC, such lack of consent on the part of AAA248997 is further buttressed by the fact that she is an intellectual disable having the mental age of a two (2)-year old person. Considering AAA248997’s intellectual disability, “the Court find[s] it highly improbable that she would fabricate the rape charge against [Cericos]. It is likewise unlikely that she was instructed into accusing [Cericos] given her limited intellect. Due to [AAA248997’s] mental condition, only a very traumatic experience would leave a lasting impression on her so that she would be able to recall it when asked.”²⁸

²⁷ *People v. Tubillo*, 811 Phil. 525, 532 (2017), citing *People v. CA*, 755 Phil. 80, 103 (2015).

²⁸ *People v. Suansing*, 717 Phil. 100, 112 (2013), citing *People v. Tablang*, 619 Phil. 757, 771–772 (2009).

As regards Cericos' invocation of "sweetheart theory," suffice it to say that the CA correctly pointed out that other than his self-serving assertions, nothing in the records show that he and AAA248997 were indeed lovers. "A 'sweetheart defense,' to be credible should be substantiated by some documentary or other evidence of relationship such as notes, gifts, pictures, mementos, and the like."²⁹

At this juncture, it is well to clarify that the Court is aware of the rulings in *People v. Castillo*,³⁰ *People v. Niebres*,³¹ and *People v. Deniega*,³² all of which provide that **sexual intercourse with an intellectual disable whose mental age is below 12 years old constitutes statutory rape**, as defined and penalized under Article 266-A(1)(d) of the RPC. However, these cases are inapplicable herein, considering that in those cases, the fact of intellectual disability was **duly alleged in the Information and proven at the trial**; whereas in the instant case, AAA248997's intellectual disability, **while proven during trial, was not duly alleged in the Informations**. In fact, in *People v. Quintos*,³³ the Court categorically stated that the victim's mental incapacity, which was not alleged in the Information but proven at the trial is enough to prove the lack of the victim's consent to engage in sexual conduct. However, it cannot be the basis of either: (1) to qualify the rape on the ground that the accused knew of the victim's mental disability under Article 266-B (10) of the RPC; or (2) **to convict the accused of Statutory Rape**, such as in this case where AAA248997, who, while already 15 years of age, suffers from intellectual disability and only has the mental age of a two (2)-year old person, viz.:

The information charging accused of this crime lacked the allegation of any mental disability on the part of AAA. **This is not necessary to convict accused of the crime of rape provided that sexual congress and mental incapacity and, therefore, the incapacity to give consent, are proved by clear and convincing evidence.**

However, to qualify the crime of rape and increase the penalty of accused from reclusion perpetua to death under Article 266-B in relation to Article 266-(A) (1) of the Revised Penal Code, an allegation of the victim's intellectual disability must be alleged in the information. If not alleged in the information, such mental incapacity may prove lack of consent but it cannot increase the penalty to death. Neither can it be the basis of conviction for statutory rape.

In this case, the elements of sexual congress and lack of consent were sufficiently alleged in the information. They were also clearly and conveniently determined during trial. **The fact of being mentally incapacitated was only shown to prove AAA's incapacity to give**

²⁹ See *People v. Quinto*, G.R. No. 242460, June 8, 2020. See also *People v. Baldo*, 599 Phil. 382, 388 (2009); citations omitted.

³⁰ G.R. No. 242276, February 18, 2020.

³¹ 822 Phil. 68 (2017).

³² 811 Phil. 712 (2017).

³³ 746 Phil. 809 (2014).

consent, not to qualify the crime of rape.³⁴ (emphases and underscoring supplied)

Thus, to convict Cericos of Statutory Rape when AAA248997's intellectual disability was not duly alleged in the Informations is to violate his constitutional right to be informed of the nature and cause of the accusation against him, which in turn, is deeply rooted to his right to due process.³⁵

In light of the foregoing considerations, the Court finds no reason to overturn the courts *a quo*'s conviction of Cericos for four (4) counts of Rape through force, violence, and/or intimidation under Article 266-A(1)(a) of the RPC, as there was no showing that the courts *a quo* overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case.³⁶

Anent the penalties to be imposed on Cericos, the RTC and the CA correctly sentenced him to suffer the penalty of *reclusion perpetua*, for each count, as such sentence is in accord with Article 266-B of the RPC. Furthermore, and pursuant to prevailing jurisprudence,³⁷ Cericos was likewise correctly ordered to pay the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, for each count, all with legal interest at the rate of six percent (6%) from the date of finality of the ruling until full payment, for each count of Rape.

ACCORDINGLY, the appeal is **DENIED**. The Decision dated May 29, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09455 is hereby **AFFIRMED**. Hence, accused-appellant Eduardo Cericos, Jr. y Obiasca a.k.a. "JR" is found **GUILTY** beyond reasonable doubt of four (4) counts of Rape, as defined and penalized under Article 266-A(1)(a), in relation to Article 266-B of the Revised Penal Code, as amended. For each count, he is sentenced to suffer the penalty of *reclusion perpetua*, and to pay AAA248997 the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) from the date of finality of this Decision until full payment, and to pay the cost of suit.

SO ORDERED.


ANTONIO T. KHO, JR.
Associate Justice

³⁴ Id. at 834.

³⁵ See *Villarba v. CA*, G.R. No. 227777, June 15, 2020; citation omitted.

³⁶ See *People v. Cruz*, 714 Phil. 390, 397 (2013).


³⁷ See *People v. Jugueta*, G.R. No. 783 Phil. 806 (2016).



WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice



JHOSEP V. LOPEZ
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice

