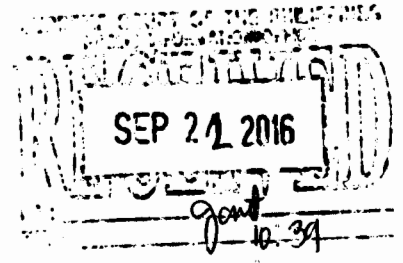




Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION



PEOPLE OF THE PHILIPPINES, G.R. No. 222658

Plaintiff-Appellee, Present:

- versus -

MARIO GALIA BAGAMANO,¹
 Accused-Appellant.

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

Promulgated:
AUG 17 2016

X-----X

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal² filed by accused-appellant Mario Galia Bagamano (Bagamano) assailing the Decision³ dated October 22, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01057-MIN, which affirmed with modification the Decision⁴ dated December 7, 2011 and the Order⁵ dated April 13, 2012 of the Regional Trial Court of Davao City, Branch 8 (RTC) in Crim. Case No. 59,211-06 finding Bagamano guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A (1) of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353,⁶ otherwise known as “The Anti-Rape Law of 1997.”

¹ Mentioned as “DDD CA-G.R. CR-HC No. 01057-MIN (formerly Criminal Case No. 59,211-06” and “DDD” in the CA Decision.
² See Notice of Appeal dated November 9, 2015; *rollo*, pp. 18-19.
³ Id. at 3-17. Penned by Associate Justice Pablito A. Perez with Associate Justices Romulo V. Borja and Oscar V. Badelles.
⁴ CA *rollo*, pp. 47-50. Penned by Presiding Judge Salvador M. Ibarreta, Jr.
⁵ Id. at 51.
⁶ 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. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES,” approved on September 30, 1997.

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The Facts

On May 3, 2006, an Information⁷ was filed before the RTC charging Bagamano of one (1) count of Rape,⁸ the accusatory portion of which reads:

That on or about May 1, 2006 in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused [Bagamano], by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA],⁹ 16 years old, against her will.

Contrary to Law.¹⁰

According to the prosecution, AAA, her mother and sister, and her sister's common-law spouse, Bagamano, lived at the same house. At around five (5) o'clock in the afternoon of May 1, 2006, AAA was in the house of a neighbor, when suddenly, Bagamano, who was drunk at the time, pulled her into their house while AAA's mother and sister were not around. Once inside, Bagamano ordered AAA to take off her clothes, covered her mouth, and then proceeded to have carnal knowledge of her. Later that day, AAA's mother noticed that AAA was pale, bruised, limping, and her dress soiled, making her suspect that Bagamano had something to do with AAA's disheveled appearance. Such suspicion was later confirmed when AAA admitted to her sister that Bagamano raped her, prompting AAA's mother and sister to bring her to the hospital for medical examination. They also went to the police station to report the matter.¹¹

For his part, Bagamano pleaded not guilty to the charge,¹² but did not present any evidence.¹³

During the trial, the prosecution presented Dr. Daisy Ann-Artuz, a psychiatric consultant of Davao Medical Center. She testified that: (a) while AAA is already 20 years old, she has a mild to moderate mental retardation, with a mental age of 6 to 7 years old; (b) children of this mental age can recall and narrate events if coupled with subtle prodding; (c) AAA has difficulty in answering questions and can only respond in phrases; (d) AAA

⁷ Not attached to the *rollo*.

⁸ See *rollo*, p. 3.

⁹ 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. 573, 578 [2014]; citations omitted).

¹⁰ See CA *rollo*, p. 47.

¹¹ See *id.* at 47-48. See also *rollo*, pp. 4-5.

¹² *Rollo*, p. 4.

¹³ *Id.* at 5. See also CA *rollo*, p. 48.

had no overtures or distortions in her perception or memory; and (e) AAA was not suffering from psychosis, which meant that she was in touch with reality and not hallucinating strangely.¹⁴

The RTC Ruling

In a Decision¹⁵ dated December 7, 2011, the RTC found Bagamano guilty beyond reasonable doubt of the crime charged and, accordingly, sentenced him to suffer the penalty of *reclusion perpetua*, as well as ordered him to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages.¹⁶

In finding Bagamano's guilt, the RTC held that AAA's testimony that Bagamano raped her was trustworthy and should be given credence, especially in light of the corroborative testimonies of her mother and sister. The RTC further noted that no ill motive can be attributed to AAA in imputing liability to Bagamano.¹⁷

Bagamano moved for reconsideration,¹⁸ which was, however, denied in an Order¹⁹ dated April 13, 2012. Aggrieved, he appealed²⁰ to the CA.

The CA Ruling

In a Decision²¹ dated October 22, 2015, the CA affirmed Bagamano's conviction, with modification increasing the damages awarded to AAA as follows: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱30,000.00 as exemplary damages.²²

Agreeing with the RTC, the CA ruled that taking into consideration that AAA is a mental retardate, her positive testimony that Bagamano took advantage of her is credible and trustworthy and, thus, sufficient to convict him of the crime of rape.²³ In this relation, the CA noted AAA's mental retardation in imposing the appropriate penalty on Bagamano.²⁴

Aggrieved, Bagamano filed the instant appeal.

¹⁴ Id. at 4.

¹⁵ CA rollo, pp. 47-50.

¹⁶ Id. at 50.

¹⁷ See id.

¹⁸ Not attached to the rollo.

¹⁹ CA rollo, p. 51.

²⁰ See Notice of Appeal dated May 10, 2012; id. at 11-12.

²¹ Rollo, pp. 3-17.

²² Id. at 17.

²³ See id. at 7-14.

²⁴ See id. at 16.

The Issue Before the Court

The issue for the Court's resolution is whether Bagamano's conviction for Rape should be upheld.

The Court's Ruling

The appeal is bereft of merit.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.²⁵

As will be explained hereunder, the CA correctly upheld Bagamano's conviction, but erred in taking into consideration AAA's mental retardation.

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

ART. 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 is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;
- 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.

x x x x

For a charge of Rape by sexual intercourse under Article 266-A (1) of the RPC to prosper, the prosecution must prove that: (a) the offender had carnal knowledge of a woman; and (b) he accomplished this act through

²⁵ See *People v. Comboy*, G.R. No. 218399, March 2, 2016, citing *Manansala v. People*, G.R. No. 215424, December 9, 2015.

✓

force, threat or intimidation, when the victim was deprived of reason or otherwise unconscious, by means of fraudulent machination or grave abuse of authority, or when the victim is under 12 years of age or is demented.²⁶ The gravamen of Rape is sexual intercourse with a woman against her will.²⁷

In this case, the Court agrees with the findings of both the RTC and the CA that the prosecution established, *among others*, that: (a) on May 1, 2006, AAA was in her neighbor's house when Bagamano pulled her into their own house; (b) once inside, Bagamano covered her mouth then had carnal knowledge of her; (c) AAA confessed to her sister that Bagamano took advantage of her; and (d) a medical examination confirmed that AAA was indeed raped. Verily, the assessment and findings of the trial court are generally accorded great weight, and are conclusive and binding to the Court if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence,²⁸ as in this case.

However, the CA should not have taken into account AAA's mental retardation. It must be stressed that in all criminal prosecutions, the accused shall be informed of the nature and cause of the accusation against him to ensure that his due process rights are observed. Thus, every indictment must embody the essential elements of the crime charged with reasonable particularity as to the name of the accused, the time and place of commission of the offense, and the circumstances thereof.²⁹ Hence, to consider matters not specifically alleged in the Information, even if proven in trial, would be tantamount to the deprivation of the accused's right to be informed of the charge lodged against him.³⁰ In this case, suffice it to say that AAA's mental retardation, while proven during trial, cannot be considered in view of the fact that it was not specifically alleged in the Information charging Bagamano of Rape.³¹ Therefore, the CA incorrectly appreciated such circumstance in determining the means by which Bagamano committed the crime. The foregoing notwithstanding, in view of the fact that the prosecution duly established that Bagamano employed force and intimidation to accomplish his criminal desires and that this circumstance was properly alleged in the Information, his conviction for Rape is proper.

Finally, the RTC and the CA correctly sentenced Bagamano to *reclusion perpetua*.³² However, the Court finds it necessary to modify the

²⁶ See *People v. Hilarion*, 722 Phil. 52, 55 (2013).

²⁷ See *People v. Comboy*, supra note 25, citing *People v. Mateo*, 588 Phil. 543, 554 (2008).

²⁸ See *People v. Arguta*, G.R. No. 213216, April 20, 2015, 756 SCRA 376, 386, citing *People v. Manatili*, 716 Phil. 762, 772 (2013).

²⁹ See *Garcia v. CA*, 420 Phil. 25, 34 (2001).

³⁰ See *People v. Arcillas*, 692 Phil. 40, 52-53 (2012).

³¹ See *rollo*, p. 4. See also *CA rollo*, p. 47.

³² Item II (1) of A.M. No. 15-08-02-SC, entitled "*Guidelines for the Proper Use of the Phrase 'Without Eligibility for Parole' in Indivisible Penalties*," dated August 4, 2015 provides:

II.

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":

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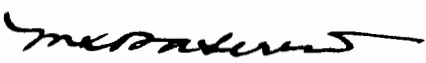
amount of exemplary damages awarded to AAA in order to conform with prevailing jurisprudence.³³ Hence, accused appellant is ordered to pay AAA the amount of ₱75,000.00 as exemplary damages. Meanwhile, the awards of ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages are affirmed. In addition, the Court imposes, on all monetary awards, interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.³⁴

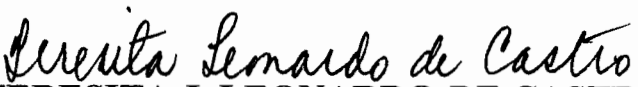
WHEREFORE, the appeal is **DENIED**. The Decision dated October 22, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 01057-MIN, finding accused-appellant Mario Galia Bagamano **GUILTY** beyond reasonable doubt of the crime of Rape as defined and penalized under Article 266-A (1) of the Revised Penal Code, as amended, is hereby **AFFIRMED** with **MODIFICATION** sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum on all the monetary awards from the date of finality of this Decision until fully paid.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

• **WE CONCUR:**


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

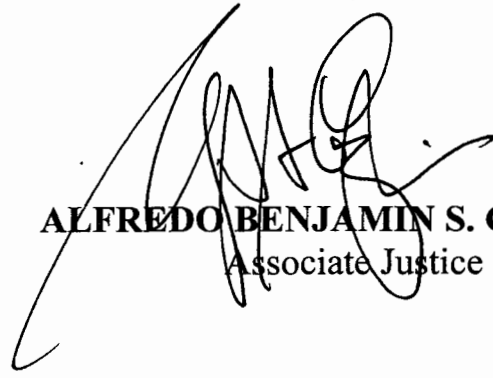

LUCAS P. BERSAMIN
 Associate Justice

(1) In cases where the death penalty is not warranted, there is no need to use the phrase “*without eligibility for parole*” to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; x x x

x x x x

³³ See *People v. Jugueta*, G.R. No. 202124, April 5, 2016.

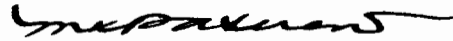
³⁴ *People v. Inciong*, G.R. No. 213383, June 22, 2015, 760 SCRA 249, 258.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



MARIA LOURDES P. A. SERENO
Chief Justice