



Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
  
 WILFREDO V. LAPIDAN  
 Division Clerk of Court  
 Third Division  
 MAR 17 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Appellee,

**G.R. No. 208406**

**Present:**

VELASCO, JR., J., *Chairperson,*  
 BRION,\*  
 PERALTA,  
 PEREZ, and  
 REYES, JJ.

- versus -

**ALLAN RODRIGUEZ y GRAJO,**  
 Appellant.

**Promulgated:**

February 29, 2016

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**DECISION**

**PERALTA, J.:**

Before us is an appeal from the Decision<sup>1</sup> dated October 22, 2012 of the Court of Appeals in CA-G.R. CR.-H.C. No. 05258 finding appellant Allan Rodriguez y Grajo guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *Reclusion Perpetua*.

In an Information<sup>2</sup> dated January 12, 2006, appellant was charged with the crime of rape (Article 266-A of the Revised Penal Code) committed against AAA,<sup>3</sup> the accusatory portion of which reads:

\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated October 27, 2014.

<sup>1</sup> Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr., concurring; *rollo*, pp. 2-15.

<sup>2</sup> Records, p. 1.

<sup>3</sup> The real names of the victim and her immediate family members, as well as any information which could establish or compromise her identity, are withheld pursuant to *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

That on or about December 18, 2004, in the Municipality of x x x, Province of Laguna, Philippines, within the jurisdiction of this Honorable Court, said accused did then and there willfully, unlawfully and feloniously have carnal knowledge with AAA, a 27 year-old-mentally retarded woman, to her damage and prejudice.

CONTRARY TO LAW.<sup>4</sup>

Appellant, duly assisted by counsel, pleaded not guilty<sup>5</sup> to the charge. Trial thereafter ensued.

The prosecution presented the testimonies of Lorenda Gozar, Psychologist at the National Bureau of Investigation (*NBI*) Psychiatric Services, the victim, AAA; BBB, AAA's mother; and Dr. Roy Camarillo, a Medico-Legal Officer; as well as documentary evidence. Their testimonies established the following:

Appellant and AAA were neighbors. At around 3 o'clock in the afternoon of December 18, 2004, AAA, who was then 27 years old but mentally retarded, was making rugs at their house when appellant called her to look after his one-year-old son as his wife was doing laundry work at an employer's house.<sup>6</sup> AAA obliged and went to appellant's house. As soon as she entered the house, appellant closed the door, kissed her, and removed her clothes and his pants.<sup>7</sup> He then inserted his penis into her vagina<sup>8</sup> and it was painful.<sup>9</sup> After satisfying his lust, appellant wiped the "white thing" that came out of his penis.<sup>10</sup> He then dressed AAA and warned her not to tell anyone about the incident. Appellant just left and played cards with his friends while AAA looked after his son until appellant's wife came back.<sup>11</sup>

On December 25, 2004, AAA told her mother, BBB, that appellant molested "ginalaw" her.<sup>12</sup> BBB confronted appellant who just denied the accusation. BBB brought AAA to the police station to file a complaint against appellant.<sup>13</sup> AAA was referred to the Regional Crime Laboratory of Laguna and examined by Dr. Roy Camarillo who issued a medical certificate<sup>14</sup> which established among others, that she had a deep recently healed lacerations at 7 o'clock position which can be three weeks to two months old at the time of physical examination on January 13, 2005. He

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<sup>4</sup> Records, p. 1.  
<sup>5</sup> *Id.* at 43.  
<sup>6</sup> TSN, November 26, 2007, p. 5.  
<sup>7</sup> *Id.* at 5-6.  
<sup>8</sup> *Id.*  
<sup>9</sup> *Id.* at 8.  
<sup>10</sup> *Id.* at 5.  
<sup>11</sup> *Id.* at 6-7, 10.  
<sup>12</sup> TSN, October 22, 2007, p. 8.  
<sup>13</sup> *Id.*  
<sup>14</sup> Records, p. 88.



testified that the multiple lacerations were caused by the insertion of an erected penis or by a hard or blunt object.<sup>15</sup>

Upon receipt of the letter referral from the RTC, Lorenda Gozar conducted a battery of psychological test on AAA for two days<sup>16</sup> and submitted her findings embodied in a Neuro Psychiatric Examination and Evaluation Report dated September 12, 2007.<sup>17</sup> She diagnosed AAA to be suffering from severe mental retardation with an IQ of 38 and a mental age consistent with a six year and two months old child.<sup>18</sup> She further testified that based on her examination and interview on AAA, the latter can remember persons and incidents that happened in the past and she can testify in court regarding the alleged rape even with her mental age of a six years old as a four (4) year child can do so.<sup>19</sup> She also noted that AAA's retardation was congenital because she started walking and talking at the age of 3 years old when other can do the same at age one.<sup>20</sup>

Appellant denied the accusation against him testifying that on December 18, 2004 at around 3 o'clock in the afternoon, he was doing carpentry work in Mang Henry's house which was located at the back of his house, and got home at 6 o'clock in the evening.<sup>21</sup> His wife corroborated his alibi and further claimed that she was at home doing laundry work at the time of the alleged incident.<sup>22</sup>

On June 30, 2011, the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 93, rendered its decision<sup>23</sup> finding appellant guilty of the crime of rape, the dispositive portion of which reads:

WHEREFORE, the Court hereby renders judgment finding accused ALLAN RODRIGUEZ Y GRAJO guilty of Rape as charged and hereby sentencing him to suffer the penalty of *Reclusion Perpetua*. In addition, accused ALLAN RODRIGUEZ Y GRAJO is ORDERED to indemnify the victim in the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and P25,000 as exemplary damages.

SO ORDERED.<sup>24</sup>

<sup>15</sup> TSN, May 26, 2008, p. 4.

<sup>16</sup> TSN, October 22, 2007, pp. 3-4.

<sup>17</sup> Records, pp. 63-64.

<sup>18</sup> *Id.* at 64.

<sup>19</sup> TSN, October 22, 2007, p. 5.

<sup>20</sup> *Id.* at 6.

<sup>21</sup> TSN, August 4, 2009, pp. 2-4; TSN, August 16, 2010, p. 3.

<sup>22</sup> TSN, August 16, 2010, pp. 3-4.

<sup>23</sup> Docketed as Criminal Case No. 5724-SPL; Per Judge Francisco Dizon Paño; *CA rollo*, pp. 47-50.

<sup>24</sup> *Id.* at 50.

In so ruling, the RTC found that AAA positively identified appellant as the one who raped her and the fact of rape was confirmed by the medico legal report; that carnal knowledge of a mental retardate is rape; and that there was no reason to doubt AAA's credibility as she had no motive to falsely testify against appellant. The RTC rejected appellant's defense of alibi because of AAA's positive identification.

Appellant filed an appeal with the CA. After the submission of the parties' respective briefs, the case was submitted for decision.

On October 22, 2012, the CA dismissed the appeal for lack of merit.

The CA found that appellant is guilty of rape under Art. 266-A paragraph 1(d) equating AAA's mental retardation with dementia; that AAA was a mental retardate was proved by clinical as well as testimonial evidence; and the fact of sexual congress between AAA and appellant was supported by medical findings.

Aggrieved by the aforesaid decision, the appellant filed a notice of appeal. We required the parties to submit supplemental briefs if they so desired. Both the Office of the Solicitor General<sup>25</sup> and the appellant<sup>26</sup> manifested that they were adopting their respective briefs filed with the CA as their supplemental briefs.

Appellant contends that his guilt for the crime charged was not proved beyond reasonable doubt. He alleges that AAA's testimony on her direct examination is bereft of any indication of a mentally imbalanced person who was abused against her will; that a judicious evaluation of her testimony would lead to the inescapable conclusion that the same is replete with evidence demonstrating that she was coached both in her direct and cross examinations; that she appeared spontaneous and was able to answer directly and unequivocally all the questions propounded on her.

Appellant further argues that the evaluation on AAA's alleged mental retardation was incomplete and inadequate to meet the requirements in determining a person's mental state as stated in *People v. Cartuano, Jr.*<sup>27</sup>

We affirm appellant's conviction for the crime of rape.



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<sup>25</sup> *Rollo*, pp. 22-23.

<sup>26</sup> *Id.* at 28-29.

<sup>27</sup> 325 Phil. 718 (1996).

Article 266-A of the Revised Penal Code as amended by Republic Act No. 8353 provides:

ART. 266-A of the Revised Penal Code. *Rape; When and How Committed.* - Rape is committed.

- 1) By a man who 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.

Clearly, the prosecution must prove that the offender had carnal knowledge of a woman under any of the four enumerated circumstances. Carnal knowledge of a woman who is a mental retardate is rape under the aforesaid provisions of law.<sup>28</sup> Proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act. What needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter.<sup>29</sup>

We find that the prosecution was able to establish the elements of rape under Article 266-A of the Revised Penal Code, as amended.

AAA's mental condition was clearly shown by the Neuro-Psychiatric Examination and Evaluation Report submitted by psychologist Gozar which indicated that AAA is suffering from severe mental retardation with an I.Q. of 38 and a mental age equivalent to that of a six (6) year and two (2) month-old child; and that AAA's retardation was congenital since the latter was able to walk and started talking at the age of three while ordinarily a child should start walking and talking at the age of one.<sup>30</sup>

A person's mental retardation can also be proven by evidence other than medical/clinical evidence, such as the testimony of witnesses and even the observation by the trial court.<sup>31</sup> Here, BBB also confirmed that her daughter is mentally retarded.<sup>32</sup> Dr. Camarillo also testified on AAA's mental retardation as he observed that the latter gave incoherent answers

<sup>28</sup> *People v. Monticalvo*, G.R. No. 193507, January 30, 2013, 689 SCRA 715, 732.

<sup>29</sup> *Id.*, citing *People v. Dela Paz*, 569 Phil. 684, 699 (2008).

<sup>30</sup> TSN, October 22, 2007, p. 6.

<sup>31</sup> *People v. Monticalvo*, *supra* note 28, citing *People v. Dalandas*, 442 Phil. 688 (2002).

<sup>32</sup> TSN, October 22, 2007, p. 8.

during her interview as well as the way she looked at him.<sup>33</sup> Notably, it was the RTC that referred AAA for a neuro-psychiatric examination and evaluation.<sup>34</sup> Thus, we agree with the findings of both the RTC and the CA that AAA is no doubt a mental retardate.

AAA positively identified appellant as the person who raped her. She testified in a straightforward and clear manner that appellant, whose house was just located at the back of their house, called her to babysit his one year old son. When AAA entered appellant's house, he closed the door, kissed her, removed her clothing and then his own clothes and then inserted his penis into her vagina, and it was painful. AAA's claim of sexual intercourse was corroborated by the medical report of Dr. Camarillo which showed the presence of a deep healed laceration at 7 o'clock position which was assessed to be three weeks to two months old which was caused by an insertion of an erected penis or a hard or blunt object. Hymenal lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.<sup>35</sup>

Rape can be established by the sole testimony of the victim that is credible and untainted with serious uncertainty.<sup>36</sup> With more reason is this true when the medical findings supported the testimony of the victim,<sup>37</sup> as in this case. When the victim's testimony of her violation is corroborated by the physical evidence of penetration, there is sufficient foundation for concluding that there was carnal knowledge.<sup>38</sup>

Appellant's allegation that AAA's testimony on her direct examination failed to show that she is a mentally imbalanced person is not persuasive.

We are not persuaded.

Psychologist Gozar testified that AAA can remember persons and the incident that happened in the past.<sup>39</sup> Thus, it is not improbable that she could remember such harrowing experience and recount the same. We note that despite AAA's mental condition, she never wavered in her testimony of what appellant did to her. We find AAA's testimony not coached or rehearsed as appellant claims it to be, but was only consistent with the innocent and categorical declaration of a child who had undergone a traumatic experience in the hands of appellant.

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<sup>33</sup> TSN, May 26, 2008, p. 7.

<sup>34</sup> *Id.* at 3.

<sup>35</sup> *People v. Limio*, 473 Phil. 659, 671 (2004), citing *People v. Luna*, 443 Phil. 782, 803 (2003), citing *People v. Bayona*, 383 Phil. 943, 956 (2000).

<sup>36</sup> *People v. Butiong*, 675 Phil. 621, 631 (2001), citing *People v. Gonzales*, 477 Phil. 120, 136 (2004).

<sup>37</sup> *Id.*, citing *People v. Corpuz*, 517 Phil. 622, 637 (2006); *People v. Ramirez*, 422 Phil. 457, 464 (2001); *People v. Apilo*, 331 Phil. 869, 889 (1996).

<sup>38</sup> *People v. Jackson*, 451 Phil. 610, 629 (2003), citing *People v. Segui*, 399 Phil. 755, 765 (2000).

<sup>39</sup> TSN, October 22, 2007, p. 5.

In *People v. Caoile*,<sup>40</sup> we held:

The fact that AAA was able to answer in a straightforward manner during her testimony cannot be used against her. The capacity of a mental retardate to stand as a witness in court has already been settled by this Court. In *People v. Castillo*, we said:

It bears emphasis that the 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 when a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility needed to convict the accused.<sup>41</sup>

Moreover, we find it unlikely that AAA would concoct or fabricate the charge of rape against the appellant if it was not true especially as there was no showing that she or her mother was impelled by improper motive to falsely testify against appellant. When there is no evidence to indicate that the prosecution witnesses were actuated by improper motives, the presumption is that they were not so actuated and that their testimonies are entitled to full faith and credit.<sup>42</sup>

It is settled that the findings of fact by the trial court are accorded great weight, and are even held to be conclusive and binding unless they were tainted with arbitrariness or oversight.<sup>43</sup> This respect is but a recognition that the trial court is better situated to assess the testimonies and evidence laid out before it during the trial.<sup>44</sup>

Appellant insists that it was necessary that the extent and degree of the clinical, laboratory and psychometric tests applied on AAA should be shown in detail in order to sustain a proper conclusion that she was indeed mentally deficient as held in *People v. Cartuano, Jr.*

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<sup>40</sup> G.R. No. 203041, June 5, 2013, 697 SCRA 638.

<sup>41</sup> *People v. Caoile, supra*, at 651-652.

<sup>42</sup> *People v. Jackson, supra* note 38, at 515, citing *People v. De la Rosa, Jr.*, 395 Phil. 643, 658 (2000).

<sup>43</sup> *People v. Domingo Gallano y Jaranilla*, G.R. No. 184762, February 25, 2015, citing *People v. Pandapatan*, 549 Phil. 817, 839 (2007).

<sup>44</sup> *Id.*



We are not impressed.

In *People v. Butiong*,<sup>45</sup> we held that:

*People v. Cartuano* applies only to cases where there is a dearth of medical records to sustain a finding of mental retardation. Indeed, the Court has clarified so in *People v. Delos Santos*, declaring that the records in *People v. Cartuano* were wanting in clinical, laboratory, and psychometric support to sustain a finding that the victim had been suffering from mental retardation. It is noted that in *People v. Delos Santos*, the Court upheld the finding that the victim had been mentally retarded by an examining psychiatrist who had been able to identify the tests administered to the victim and to sufficiently explain the results of the tests to the trial court.<sup>46</sup>

In this case, the records show that the findings on AAA's mental retardation was supported by the neuro-psychiatric examination and evaluation conducted by psychologist Gozar on AAA for two days. Gozar testified on her findings which were based on the different tests she administered on AAA such as the Stanford Binnet Intelligence Test, which the Cartuano case cited by appellant even considered to be a test with high validity and reliability.<sup>47</sup> Thus, AAA's mental retardation was established by physical and laboratory examinations.

The RTC correctly rejected appellant's denial and alibi. Appellant's defense that he was doing carpentry work in Mang Henry's house from 8 o'clock in the morning until 6 o'clock in the evening of December 18, 2004, which was corroborated by his wife is not persuasive. For alibi to prosper, the appellant must not only prove that he was somewhere else when the crime was committed, he must also convincingly demonstrate the physical impossibility of his presence at the *locus criminis* at the time of the incident,<sup>48</sup> which appellant failed to do. In the instant case, appellant admitted that Mang Henry's house is just a walking distance from his house where AAA was raped. Thus, it was not physically impossible for appellant to have left his work momentarily to go home and raped AAA.

We note, however, that the CA convicted appellant of the crime of rape under Art. 266A paragraph 1(d) of the Revised Penal Code as amended, *i.e.*, rape of a demented person. In *People v. Monticalvo*,<sup>49</sup> however, we held:

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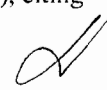
<sup>45</sup> *Supra* note 36.

<sup>46</sup> *Id.* at 575.

<sup>47</sup> *People v. Cartuano, Jr.*, *supra* note 27, at 425.

<sup>48</sup> *People v. Limio*, *supra* note 35, at 672, citing *People v. Besmonte*, 445 Phil. 555, 570 (2003), citing *People v. Lachica*, 431 Phil. 764, 780-781 (2002).

<sup>49</sup> *Supra* note 28.





x x x (P)aragraph 1, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, provides for two (2) circumstances when carnal knowledge of a woman with mental disability is considered rape. Subparagraph (b) thereof refers to rape of a person “deprived of reason” while subparagraph (d) refers to rape of a “demented person.” The term “deprived of reason” has been construed to encompass those suffering from mental abnormality, deficiency or retardation. The term “demented,” on the other hand, means having *dementia*, which Webster defines as mental deterioration; also madness, insanity. *Dementia* has also been defined in Black’s Law Dictionary as a “form of mental disorder in which cognitive and intellectual functions of the mind are prominently affected; x x x total recovery not possible since cerebral disease is involved.” Thus, a mental retardate can be classified as a person “deprived of reason,” not one who is “demented” and carnal knowledge of a mental retardate is considered rape under subparagraph (b), not subparagraph (d) of Article 266-A(1) of the Revised Penal Code, as amended.<sup>50</sup>

Based on the above-quoted disquisitions, we find that the CA erred in equating AAA's mental retardation with dementia. The Information alleged that AAA was a 27 year old mentally-retarded woman at the time of the commission of the crime which was duly proved during the trial. As we have held, carnal knowledge of a female mental retardate with the mental age below 12 years of age is rape of a woman deprived of reason,<sup>51</sup> thus, AAA's rape fall under paragraph 1(b) of Article 266-A. Considering that the prosecution had satisfactorily proved appellant's guilt beyond reasonable doubt, his conviction stands.

The RTC as affirmed by the CA correctly imposed on appellant the penalty of *reclusion perpetua* in accordance with Article 266-B paragraph 1 of the Revised Penal Code.

However, pursuant to prevailing jurisprudence,<sup>52</sup> we reduce the award of civil indemnity to ₱50,000.00,<sup>53</sup> and the award of moral damages to ₱50,000.00.<sup>54</sup> The award for exemplary damages is increased to ₱30,000.00 to conform to recent jurisprudence.<sup>55</sup> The amounts of damages awarded should earn interest at the rate of 6% *per annum* from the finality of this judgment until said amounts are fully paid.<sup>56</sup>

**WHEREFORE**, the Decision dated October 22, 2012 of the Court of Appeals in CA-G.R. CR.-H.C. No. 05258 finding appellant guilty of rape is

<sup>50</sup> *Id.* at 731.

<sup>51</sup> *People v. Butiong*, *supra* note 36, at 633; *People v. Dalan*, G.R. No. 203086, June 11, 2014, 726 SCRA 335, 342.

<sup>52</sup> *People v. Domingo Gallano y Jaranilla*, G.R. No.184762, February 25, 2015.

<sup>53</sup> *Id.*, citing *People v. Roxas*, G.R. No. 200793, June 4, 2014, 725 SCRA 181, 199.

<sup>54</sup> *Id.*, citing at *People v. Gahi*, G.R. No. 202976, February 19, 2014, 717 SCRA 209, 234.

<sup>55</sup> *Id.*, *People v. Dalan*, *supra* note 51.

<sup>56</sup> *Nacar v. Gallery Frames and/or Felipe Bordey, Jr.*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 459.

**AFFIRMED** with **MODIFICATIONS** that appellant is **ORDERED** to **PAY** AAA ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages, with all such amounts to earn interest of six percent (6%) *per annum* from the finality of this decision until full payment.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

On leave  
**ARTURO D. BRION**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice

**ATTESTATION**

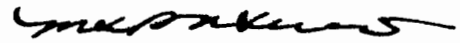
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

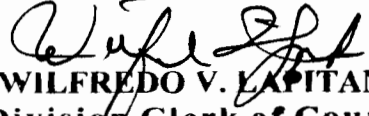
**CERTIFICATION**

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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

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**WILFREDO V. KAPITAN**  
Division Clerk of Court  
Third Division

**MAR 17 2016**