



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LLANETA
 Division Clerk of Court
 Third Division
 JUN 17 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 206419

Present:

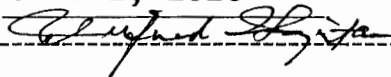
-versus-

SERENO, C.J.,*
 VELASCO, JR., J.,
Chairperson,
 PERALTA,
 PEREZ, and
 REYES, JJ.

RUBEN DELA ROSA
 Accused-Appellant.

Promulgated:

June 1, 2016

X----------X

RESOLUTION

PEREZ, J.:

Before us for review is the Decision¹ of the Court of Appeals in C.A. G.R. CR-H.C. No. 03818 dated 28 September 2012, which dismissed the appeal of appellant Ruben dela Rosa and affirmed with modifications the Decision² of the Regional Trial Court (RTC) of Binangonan, Rizal, Branch 67, in Criminal Case No. 05-373, finding appellant guilty beyond reasonable doubt of the crime of Qualified Rape.

In line with the ruling of this Court in *People v. Cabalquinto*,³ the real name and identity of the rape victim, as well as the members of her

* Additional Member per Raffle dated 18 May 2016.

¹ *Rollo*, pp. 2-16; Penned by Associate Justice Michael P. Elbinias with Associate Justices Isaias P. Dicdican and Nina G. Antonio-Valenzuela concurring.

² Records, pp. 104-105; Presided by Presiding Judge Dennis Patrick Z. Perez.

³ 533 Phil. 703 (2006).

immediate family, are not disclosed. The rape victim shall herein be referred to as AAA, and her mother as BBB.

Appellant was charged with the crime of rape in an Information, the accusatory portion of which reads as follows:

That, sometime in June, 2004, in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above named accused, taking advantage of his moral authority and influence to the offended party, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA], a thirty-one (31) year old woman with a mental age of a nine (9) year old minor, against the latter's will and consent, the said crime having been attended by the qualifying circumstance that the accused knew of the mental disability, emotional disorder and/or physical handicap of his victim at the time of the commission of the offense, the offended party being a retardate is deprived of reason, aggravated by the circumstances of abuse of superior strength, dwelling and the act having been committed with insult or in disregard of the respect due the offended party on account of her mental disability, to the damage and prejudice of said victim [AAA].⁴

Appellant pleaded not guilty to the crime charged. Trial on the merits ensued.

The prosecution presented AAA, her mother, BBB, and Nimia Hermilia C. De Guzman (De Guzman), a clinical psychologist of the National Center for Mental Health, as witnesses.

The prosecution established that appellant and his family had been living with AAA and BBB at the latter's house when sometime in June 2004, around nine o'clock in the evening, BBB saw appellant, whom AAA called "daddy," came out of her daughter's room. BBB confronted appellant about this the next day to no avail. Appellant's wife was likewise unresponsive. In time, a neighbor disclosed to BBB that AAA had told her in her stunted language, "*Daddy, pasok titi, sakit-sakit, dito pasok titi, hipo-hipo dede, halik-halik dito, iyak-iyak ako, hubad-hubad damit ko.*" BBB promptly asked AAA about the truth of this and the latter replied, "*Opo, ganun po ako, hubad damit Daddy, dito taas, kiss-kiss, lamas-lamas.*"⁵

⁴ Records, p 1.

⁵ TSN, 4 October 2007, pp. 3-6.

AAA confirmed that indeed appellant had gone to her room, removed her clothes, kissed her breasts and inserted his penis into her vagina.⁶

BBB immediately brought AAA to the police station, then to Camp Crame where BBB was told that AAA exhibited physical signs of having experienced sexual intercourse several times.⁷ At the mental hospital, AAA was examined by De Guzman who concluded in her report that AAA had the mental age of a nine (9) year old child.⁸

As sole witness for the defense, appellant interposed the defense of denial and asserted that he and his family no longer lived with AAA and her mother at the time of the alleged commission of the crime. He also averred that his wife had previously filed a complaint before the *barangay* against BBB and her sister for having maltreated appellant's child.⁹

On 28 November 2008, appellant was found guilty beyond reasonable doubt of statutory rape. The dispositive portion of the RTC Decision reads:

The foregoing considered, we find the accused Ruben Dela Rosa **GUILTY** beyond reasonable doubt of qualified rape under Article 266-A, Paragraph 1 (d) in relation to Article 266-B, Revised Penal Code and sentence him to serve a penalty of *Reclusion Perpetua*. We further order him to pay ₱50,000.00 as moral damages and ₱50,000.00 as exemplary damages plus costs.¹⁰

On intermediate review, the Court of Appeals rendered the assailed decision affirming with modifications the trial court's judgment, to wit:

IN VIEW OF ALL THESE, the appealed Decision convicting accused-appellant Ruben Dela Rosa in Criminal Case No. 05-373 is **AFFIRMED**, with the following **MODIFICATIONS**:

- a) The award of Moral Damages to be paid by accused-appellant to AAA is increased from Php 50,000.00 to Php 75,000.00;
- b) The award of Exemplary Damages to be paid by accused-appellant to AAA is decreased from Php 50,000.00 to Php 30,000.00; and,
- c) Accused-appellant is ordered to pay AAA the amount of Php 75,000.00 as Civil Indemnity.¹¹

⁶ TSN, 17 January 2008, pp. 5-8.

⁷ TSN, 4 October 2007, pp. 7-8.

⁸ TSN, 3 May 2007, p. 9; Exhibit "A," and Records, pp. 53-54.

⁹ TSN, 31 July 2008, pp. 3-6.

¹⁰ Records, p. 105.

¹¹ *Rollo*, p. 15.

Appellant filed the instant appeal. In a Resolution¹² dated 19 June 2013, appellant and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Both parties opted to dispense with the filing of supplemental briefs.¹³

The Court affirms appellant's conviction.

Rape is committed as follows:

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 woman is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

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 attendant 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.¹⁴

Carnal knowledge of a woman who is a mental retardate is rape under the aforesaid provisions of law. Proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual

¹² Id. at 22.

¹³ Id. at 27-28 and 30-31.

¹⁴ Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as the "The Anti-Rape Law of 1997."

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.¹⁵

In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things.¹⁶

In this case, AAA testified in a clear, spontaneous and candid manner about the sexual abuse and positively identified appellant as her abuser, to wit:

Q Kilala mo ba si Ruben Dela Rosa?

A Opo.

Q Nandito ba si Ruben ngayon? Ituro mo nga.

A (Witness pointing to a person wearing prisoner's uniform who when asked his name answered Ruben Dela Rosa)

Q Paano mo tinatawag si Ruben? Ben ba, papa ba o daddy?

A Daddy.

Q Noong buwan ng June, 2004, saan nakatira itong si Daddy? Sa inyo ba o sa kapit-bahay ba?

A Sa bahay namin.

Q Si Ruben ba mabait sa'yo o salbahe?

A Ni-rape ako...

COURT

[AAA] anong ginawa sa'yo?

WITNESS

(Witness demonstrating with hands that she was raped)

Q Saan ginawa sa'yo?

A Sa kwarto.

x x x x

Q Tapos nakahiga ka at pumasok sya, anong kauna-unahan nyang ginawa?

¹⁵ *People v. Magabo*, 402 Phil. 977, 983-984 (2001).

¹⁶ *People v. Pascua*, 462 Phil. 245, 252 (2003).

A Hinubad yung t-shirt ko tapos yung bra.

COURT

Anong ginawa nya sayo [AAA]? Hinawak-hawakan nya yung dede mo?

WITNESS

(Witness nodding)

Q Tapos ano pang ginawa bukod sa hinawakan nya yung dede mo? Hinalikan o dinede?

A Hinalikan.

x x x x

Q Pagkahubad nya nung palda mo at nung panty mo anong ginawa nyang sumunod?

A Pinasok nya (Witness demonstrating with hands, her finger pointing to the palm that the penis of the accused was inserted to her vagina)¹⁷

Appellant, on the other hand, denied having raped AAA and averred that he and his family had already been living somewhere else at the time of the alleged commission of the offense. He even testified of some *barangay* complaint his wife had purportedly filed against BBB and the latter's sister, perhaps to intimate ill motive on the part of AAA and family in the filing of the instant case. Notably, except for appellant's testimony, defense did not formally offer as evidence this supposed *barangay* complaint.

Denial and alibi are inherently weak. Being negative defenses, if not substantiated by clear and convincing evidence, they would merit no weight in law and cannot be given greater evidentiary value than the testimony of credible witnesses who testified on affirmative matters.¹⁸

This Court has strongly ruled that between categorical testimonies that ring of truth on one hand and bare denial on the other, the former must prevail. Positive identification of the appellant, when categorical and consistent and without any ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial.¹⁹

¹⁷ TSN, 17 January 2008, pp. 5-8.

¹⁸ *People v. Tagana*, 468 Phil. 784, 807 (2004).

¹⁹ *Id.* at 807-808.

While no medical examination was presented as evidence, it has been ruled that such is merely corroborative in character and is not an indispensable element for conviction in rape. Of primary importance is the clear, unequivocal and credible testimony of private complainant which we so find in the instant case.²⁰

It bears underscoring that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it was shown that they could communicate their ordeal capably and consistently. It lends greater credence to AAA's testimony that someone feeble-minded and guileless as her could speak so tenaciously and explicitly on the details of the rape if she not in fact suffered such crime at the hands of the appellant.²¹ Having the mental age of nine (9) bolsters AAA's credibility as a witness, considering that a victim at such a tender age would not publicly admit that she had been criminally abused unless that was the truth. There is no cogent reason to depart from the findings of the trial court with respect to the assessment of AAA's testimony, the same being clear, unequivocal and credible.

Anent AAA's mental retardation, the Court has held that the same can be proven by evidence other than medical/clinical evidence, such as the testimony of witnesses and even the observation by the trial court.²²

Here, both clinical and testimonial evidence were presented by the prosecution to prove that AAA is a mental retardate. The Psychological Report²³ of De Guzman, which was also testified to by her, states that after a series of tests performed on AAA, the latter was found to be suffering from Mild Level of Mental Retardation with an I.Q. of 68 and a mental age equivalent to that of a nine (9) year old. AAA could only reproduce tasks after a pattern, thus, verbal tests could not be administered. The Report notes that AAA talks monosyllabically, often stammers and needs a caregiver to guide and protect her.

BBB significantly described her daughter as follows:

Q Can you tell us the mental condition of your daughter?

A Ang anak ko po, mabait naman siya.

Q No, her mental condition.

²⁰ See *People v. Lerio*, 381 Phil. 80, 88 (2000).

²¹ See *People v. Toralba*, 414 Phil. 793, 800 (2001).

²² *People v. Dalandas*, 442 Phil. 688, 697 (2002).

²³ Exhibit "A," pp. 53-54.

A Tumutulo po ang laway nya, ganun minsan.

COURT

Q Mababa ang IQ?

A Yes, Your Honor.

PROSECUTOR ARAGONES

Q Is she mentally retarded?

A Yes, Ma'am.²⁴

Given AAA's appearance, and considering that appellant and his family have lived with AAA and BBB for a length of time, appellant could only have been too aware of the apparent and noticeable fact of AAA's mental condition.²⁵

The Court has held in a long line of cases that if the mental age of a woman above twelve years is that of a child below twelve years, even if she voluntarily submitted to the bestial desires of the accused, or even absent the circumstances of force or intimidation or the fact that the victim was deprived of reason or otherwise unconscious, the accused would still be liable for rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended by Republic Act No. 8353. The rationale is that if sexual intercourse with a victim under twelve years of age is rape, then it should follow that carnal knowledge of a woman whose mental age is that of a child below twelve years would also constitute rape.²⁶

Knowledge of the offender of the mental disability of the victim at the time of the commission of the crime of rape qualifies the crime and makes it punishable by death under paragraph 10, Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353. In this case, such knowledge was properly alleged in the Information filed against the appellant, and was sufficiently proven by the prosecution as appellant in fact had lived with AAA and BBB for a considerable period of time.

All told, the prosecution was able to prove that appellant is guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended by Republic Act No. 8353. The Court agrees with the appellate court that considering appellant had knowledge of AAA's mental retardation at the time of the commission of

²⁴ TSN, 4 October 2007, pp. 8-10.

²⁵ TSN, 4 June 2008, p. 3.

²⁶ *People v. Dela Paz*, 569 Phil. 684, 705 (2008) citing *People v. Ittang*, 397 Phil. 692, 704 (2000).

the crime, the same having been properly alleged in the Information charging appellant of the crime of rape and proven during trial, the penalty according to law would have been death. With the enactment, however, of Republic Act No. 9346,²⁷ the imposition of the death penalty has been prohibited without declassifying the crime of qualified rape as heinous. Thus, the trial court and the appellate court correctly imposed the penalty of *reclusion perpetua*.

The Court modifies the appellate court's award of damages as follows: ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages pursuant to prevailing jurisprudence.²⁸ Further, the amount of damages awarded should earn interest at the rate of six percent (6%) *per annum* from the finality of this judgment until said amounts are fully paid.²⁹

WHEREFORE, premises considered, the Decision dated 28 September 2012 of the Court of Appeals of Manila, Thirteenth Division, in CA-G.R. CR.-H.C. No. 03818, finding appellant Ruben dela Rosa guilty beyond reasonable doubt of the crime of qualified rape in Criminal Case No. 05-373, is hereby **AFFIRMED WITH MODIFICATION**. Appellant Ruben dela Rosa is ordered to pay the private offended party as follows: ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. He is **FURTHER** ordered to pay interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

No pronouncement as to costs.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

²⁷ Otherwise known as “An Act Prohibiting the Imposition of Death Penalty in the Philippines.”

²⁸ *People v. Gambao*, G.R. No. 172707, 1 October 2013, 706 SCRA 508.

²⁹ *People v. Vitero*, G.R. No. 175327, 3 April 2013, 695 SCRA 54, 69.

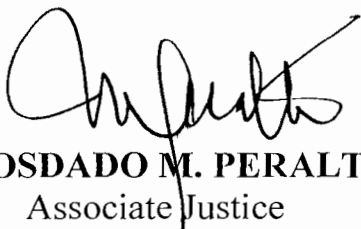
WE CONCUR:



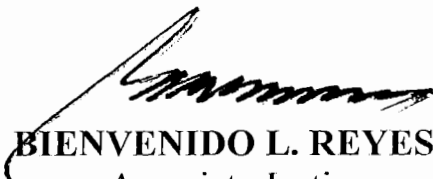
MARIA LOURDES P.A. SERENO
Chief Justice



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson




DIOSDADO M. PERALTA
Associate Justice



BIENVENIDO L. REYES
Associate Justice

ATTESTATION

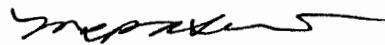
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

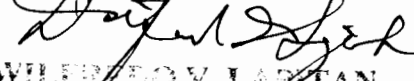
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Resolution 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. LANTIAN
Division Clerk of Court
Third Division

JUN 17 2016