Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-appellee,	**G.R. No. 220145**
	Present:
- versus -	CAGUIOA, *Chairperson*, INTING, ZALAMEDA,* GAERLAN, and DIMAAMPAO, *JJ.*
XXX,[1] Accused-appellant.	Promulgated: August 30, 2023

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DECISION

GAERLAN, *J.*:

This resolves the appeal pursuant to Section 13(c), Rule 124 of the Rules of Court, as amended, from the Decision[2] dated March 30, 2015, of the Court of Appeals (CA) Cagayan De Oro (CDO) Station in CA-G.R. CR-HC No. 01213-MIN. The CA affirmed the Decision of the Regional Trial Court (RTC) of [redacted] City, Branch 11, finding XXX (accused-appellant),

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* Designated additional Member per Raffle dated April 19, 2023.

1 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 (R.A.) No. 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; R.A. NO. 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; 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.)

2 *Rollo*, pp. 3-14. Penned by Associate Justice Maria Filomena D. Singh (now a Member of the Court), with Associate Justices Romulo V. Borja and Oscar V. Badelles, concurring.

guilty beyond reasonable doubt of the crime of Rape under Article 266-A of the Revised Penal Code (RPC), paragraph 1(b) in Criminal Case No. 63, 929-08.

The Antecedent Facts

The accused-appellant was charged with the crime of Rape by virtue of an Information dated July 4, 2008, the accusatory portion of which reads:

> That on or about July 1, 2008, in the City of [redacted], Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, willfully, unlawfully, and feloniously had carnal knowledge of his sister-in-law, private complainant [AAA] who is a mental retardate and therefore deprived of reason, to the latter's damage and prejudice.
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> CONTRARY TO LAW.[3]

On August 20, 2008, the accused-appellant was arraigned, and assisted by counsel, entered a plea of not guilty to the offense charged. After pre-trial, trial on the merits ensued.[4]

The prosecution presented as witnesses: CCC, the mother; BBB, the sister of private complainant AAA; the wife of the accused-appellant; Rose M. Golisino; Police Officer 3 Crisostomo Libertad; and Dr. Marly Lee Roda (Dr. Roda), the medical officer who examined AAA.[5] Their testimonies tend to establish the following facts:

AAA is mentally challenged pursuant to a medical certificate issued by Dr. Marios Orlando Oco (Dr. Oco).[6]

On June 28, 2008, AAA went to the house of her older sister, BBB, in [redacted] City for a vacation.[7]

On July 1, 2008 at around 12:00 noon, BBB awoke from a brief nap and found that AAA was no longer beside her. She then went to the kitchen to look for her. There, BBB found AAA leaning on the wall with her panty down on her knees while her husband, the accused-appellant, was standing in front of her. Upon seeing BBB, the accused-appellant immediately went towards the sink.[8]

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3 Records, p. 1.
4 *Rollo,* p. 4.
5 Id.
6 Id. at 4, 12, 29.
7 CA *rollo,* p. 28.
8 Id.

BBB then brought AAA to the bedroom and asked her what happened. AAA narrated that the accused-appellant removed her panty, undressed himself and then "put his penis out and held her vagina."[9]

Thereafter, BBB and AAA went to their mother CCC's house and narrated what happened. Angered by what she heard, CCC went to the police station to report the incident and submitted AAA for medical examination.[10]

AAA was physically examined by Dr. Roda on July 2, 2008, who testified on the basis of the medical certificate she had issued that at the time of examination, she found complete transection and partial laceration on AAA's hymenal area and fresh abrasions on her lower extremities which indicate that there was a "definitive penetrating injury" in AAA's genitalia,[11] *viz.:*

> [T]here were fresh abrasion on the posterior fourchette and then on the hymenal area, there was a complete transection at 6:00 o'clock position or just above the posterior fourchette. There was partial laceration at 5:00 o'clock position and complete transection at 11:00 o'clock position.[12]

The accused-appellant then testified in his defense. He denied the accusation against him and averred that AAA is like a sister to her. The accused-appellant narrated that in the morning of July 1, 2008, he was at the farm. At around 7:00 a.m., he returned home and had just prepared corn at the stove when AAA suddenly embraced him. He elbowed her causing AAA to fall down and cry. It was at this point when his wife, BBB, appeared with a stick, hit him with it on his head, and accused him of raping AAA.[13]

The following day, the accused-appellant was summoned to his aunt's house. After being seated, he was surprised when the police officers appeared, arrested him, and brought him to the [redacted] Police Station.[14]

The RTC's Decision

On June 15, 2012, the RTC rendered its Judgment,[15] ruling as follows:

> In view of the foregoing, judgment is hereby rendered finding Maximo Casanillo, Jr. GUILTY beyond reasonable doubt of the crime of Rape.

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9 Id. at 29.
10 Id.
11 Id.; records, p. 8.
12 Id.
13 Id. at 29-30.
14 Id. at 30.
15 CA *rollo*, pp. 28-32. Penned by Presiding Judge Virginia Hofileña-Europa.

> He is hereby sentenced to suffer the penalty of *reclusion perpetua.* He is likewise, ordered to pay [AAA] the sum of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity and the further sum of FIFTY THOUSAND PESOS (P50,000.00) as moral damages.
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> SO ORDERED.[16]

The RTC relied heavily upon the testimony of BBB which it found credible and sufficient to sustain a judgment of conviction for Rape under Article 266-A, paragraph 1(b) of the RPC, particularly as it was corroborated by medical examination results. The RTC found no merit in the accused-appellant's defense that he had mild moderate retardation and as such should be exempted from criminal liability. The RTC observed that despite being afflicted with such illness, the accused-appellant could determine right from wrong and could function normally as a person.[17]

The accused-appellant thus filed an appeal before the CA CDO Station.

The CA's Decision

In the herein assailed Decision[18] dated March 30, 2015, the CA affirmed the RTC. The dispositive portion of the decision reads:

> WHEREFORE, the appeal is DENIED. The Judgment dated June 15, 2012 rendered by the Regional Trial Court of [redacted] City, Branch 11, in Criminal Case No. 63, 929-08, is hereby AFFIRMED, finding accused-appellant Maximo Casanillo, Jr. GUILTY beyond reasonable doubt of simple rape, with the ADDITION of the award of exemplary damages in the amount of ₱30,000.00. The award of civil indemnity and damages shall earn legal interest at the rate of 6% per *annum* from date of finality of this judgment until fully paid.
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> SO ORDERED.[19]

The CA opined that while the victim, AAA, did not testify, the commission of the crime of Rape was nonetheless established by circumstantial evidence. In the absence of showing of improper motive or ill will on the part of BBB and CCC to falsely testify against the accused-appellant, the CA held that there is no reason to depart from the findings of the RTC as to their credibility.[20]

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16 Id. at 31-32.
17 Records, pp. 120-121.
18 *Rollo,* pp. 3-14.
19 Id. at 14.
20 Id. at 8-11.

On the accused-appellant's defense, the CA did not delve into the mental capacity of the accused-appellant. Instead, it focused on the latter's denial, which it found insufficient when faced with the evidence for the prosecution.[21]

Finally, AAA's mental retardation having been proven by the testimonies of BBB and CCC, as well as of the medical findings of Dr. Oco, a psychiatrist from the Davao Medical Center, the CA affirmed that the crime committed is Rape under Article 266-A, paragraph 1(b) of the RPC.[22]

In this appeal, both parties manifested that they would no longer submit supplemental briefs considering that they had already exhaustively discussed the issues in their briefs before the CA.[23]

In the main, the accused-appellant assails the judgment of conviction on the ground that his guilt has not been proven beyond reasonable doubt. The accused-appellant argues that the fact of carnal knowledge has not been established. He points to the failure of AAA to testify and illustrate to the court the details of the incident. As well, the accused-appellant submits that the testimonies of the prosecution witnesses are based on assumptions.[24]

The accused-appellant avers that admitting for the sake of argument that AAA is a mental retardate, it is impossible for her "to communicate intelligently, completely, clearly, and effectively what truly happened" to BBB. Accordingly, there is no assurance that AAA's supposed narration as testified to by BBB is credible and true. Further, as there is no other eyewitness to the crime, the acquittal of the accused-appellant must follow.[25]

Ruling of the Court

The appeal is ***not*** **meritorious.**

I.

The Court finds that the prosecution successfully established all the elements of the crime of simple Rape under Article 266-A paragraph 1(b) of the RPC.

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21 Id. at 12-13.
22 Id. at 12.
23 Id. at 22-23, 26-27.
24 CA *rollo*, pp. 21-22.
25 Id. at 22-26.

As it stands, Rape under Article 266-A(1) of the RPC, as amended, may be committed 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 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.

Proceeding from the charge under the Information and the foregoing provision, the following elements must be proven: (1) the sexual congress between the accused and the victim; and (2) the mental retardation of the victim.[26]

With respect to the first element, the Court sees no reason to depart from the findings of both the RTC and the CA as to the credibility of prosecution witnesses. The Court accords upon such findings utmost respect and finality, there being no showing that significant facts have been overlooked or disregarded, which could have otherwise affected the result of the case.[27] It is a time-honored principle that the task of assigning values to the testimonies of witnesses and weighing their credibility are best left to the trial court which have the unique advantage of observing the demeanor of witnesses as they testify.[28]

The accused-appellant's denial cannot prevail over the positive testimonies of the prosecution witnesses, who were not shown to have any ill motive to testify against the accused-appellant.[29]

The supposed narration of AAA to BBB in which she failed to categorically state that she was raped by the accused-appellant is understandable considering AAA's mental retardation. While AAA was

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26 *People v. Bayrante*, 687 Phil. 416, 425 (2012).
27 *People v. Banzuela*, 723 Phil. 797, 814 (2013).
28 *People v. Baluya*, 664 Phil. 140, 153 (2011).
29 Id.

unable to communicate precisely what happened to her, this does not detract from the fact that the totality of the circumstances, as affirmed by the prosecution witnesses, shows that the accused-appellant had carnal knowledge of her. Further, the testimonies are corroborated by the findings of the medico-legal examination conducted the day after the sexual congress, which indicated that AAA sustained fresh abrasions in her lower extremities and that there was definitive penetrating injury" in her genitals.[30]

There is no contest anent the second requirement. The parties admit the victim's mental retardation. Nevertheless, in light of recent jurisprudence and the peculiar circumstances of this case, the Court finds it relevant to discuss the matter further.

II. A.

In the case of *People v. Castillo*,[31] the Court *En Banc* unanimously held that carnal knowledge with a mental retardate whose mental age is below 12 years old is statutory rape under paragraph 1(d), Article 266-A of the RPC, as amended.

Prior to the Court's ruling in *Castillo*, jurisprudence vary with respect to the characterization of the crime committed when there is carnal knowledge of a "female mental retardate with mental age below 12 years of age." In some cases, the Court adjudged the same as rape of a woman *deprived of reason* under paragraph (b) of the above provision,[32] while in other instances, it is ruled that the crime is *statutory rape* under paragraph (d) of the same article.[33]

Finally, settling the variance in the doctrines, the Court in *Castillo*, after finding that the prosecution satisfactorily established the mental age of the victim to be that of a 5-year-old, concluded that the crime should be classified as statutory rape. This conclusion is based on the distinctions made in the case of *People v. Quintos*[34] of the terms "deprived of reason," "demented," and "mental retardation," *viz.:*

> The term, "deprived of reason," is associated with insanity or madness. A person deprived of reason has mental abnormalities that affect his or her reasoning and perception of reality and, therefore, his or her capacity to resist, make decisions, and give consent.

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30 Records, p. 8.
31 G.R. No. 242276, February 18, 2020, 932 SCRA 487.
32 *People v. Rodriguez*, 781 Phil. 826, 838 (2016); *People v. Monticalvo*, 702 Phil. 643, 657 (2013).
33 *People v. Deniega*, 811 Phil. 712, 720-721 (2017); *People v. Niebres*, 822 Phil. 68, 75-76 (2017).
34 746 Phil. 809 (2014)

> The term, "demented," refers to a person who suffers from a mental condition called dementia. Dementia refers to the deterioration or loss of mental functions such as memory, learning, speaking, and social condition, which impairs one's independence in everyday activities. We are aware that the terms, "mental retardation" or "intellectual disability," had been classified under "deprived of reason." The terms, "deprived of reason" and "demented", however, should be differentiated from the term, **"mentally retarded" or "intellectually disabled." An intellectually disabled person is not necessarily deprived of reason or demented.** This court had even ruled that they may be credible witnesses. However, his or her maturity is not there despite the physical age. He or she is deficient in general mental abilities and has an impaired conceptual, social, and practical functioning relative to his or her age, gender, and peers. Because of such impairment, he or she does not meet the "sociocultural standards of personal independence and social responsibility."
>
> Thus, a person with a chronological age of 7 years and a normal mental age is as capable of making decisions and giving consent as a person with a chronological age of 35 and a mental age of 7. Both are considered incapable of giving rational consent because both are not yet considered to have reached the level of maturity that gives them the capability to make rational decisions, especially on matters involving sexuality. Decision-making is a function of the mind. Hence, a person's capacity to decide whether to give consent or to express resistance to an adult activity is determined not by his or her chronological age but by his or her mental age. **Therefore, in determining whether a person is "twelve (12) years of age" under Article 266-A(1)(d), the interpretation should be in accordance with either the chronological age of the child if he or she is not suffering from intellectual disability, or the mental age if intellectual disability is established.**[35] (Emphasis supplied and citations omitted)

An important take away from this distinction, as adopted in the case of *Castillo,* is that mental retardation is merely a form of intellectual disability. Thus, depending on its severity, the person suffering therefrom is "*not necessarily deprived of reason or demented.*"

II. B.

Distinguished from the factual milieu in *Castillo,* in the present case, AAA is a mental retardate, whose level of disability has ***not*** been equated to a specific "mental age." The medical certificate dated September 26, 2008, issued by Dr. Oco, merely stated that the victim is suffering from "moderate retardation," which renders her not fit to stand trial.[36]

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35 Id. at 829-831.

36 CA *rollo*, p. 30; records, p. 27.

In this case, as well, there is no basis from which to infer the mental aging of the victim, inasmuch as the latter did not testify; as based on the assessment of the trial court her mental capacity renders her unfit to stand trial.[37] In her testimony, Dr. Roda opined:

> Q Were you able to elicit answers from her?
> A It's hard to elicit answers from her.
>
> Q Why is that?
> A She cooperate[d] with us[,] however, we cannot understand but there is no, her line of thinking, she cannot derive to a specific answer that we want her to answer us.[38]

This depiction does not give the Court guidance with respect to the "mental age" of the victim.

AAA's mental disability at the time the offense was committed is undisputed by the parties. It has also been established that owing to AAA's mental retardation, she is incapable of giving rational consent and has not reached the level of maturity that would give her the capacity to make prudent decisions, especially in matters involving sexuality, thus rendering irrelevant the element of consent and supporting the conclusion that the sexual intercourse committed by the accused-appellant is rape.[39] Nevertheless, it is still relevant to determine the severity of her illness for the purpose of properly designating the offense charged and committed, particularly, whether the same is statutory rape.

In *People v. Dalandas*[40] and reiterated in *People v. Bayrante*[41] the Court had the opportunity to describe in detail the nature of mental retardation and its different degrees, *viz.*:

> Mental retardation is a chronic condition present from birth or early childhood and characterized by impaired intellectual functioning measured by standardized tests. It manifests itself in impaired adaptation to the daily demands of the individual's own social environment. Commonly, a mental retardate exhibits a slow rate of maturation, physical and/or psychological, as well as impaired learning capacity.
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> Although "mental retardation" is often used interchangeably with "mental deficiency," the latter term is usually reserved for those without recognizable brain pathology. The degrees of mental retardation according to their level of intellectual function are illustrated, thus:

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37 Id.
38 Transcript of Stenographic Notes (TSN), July 14, 2009, p. 8.
39 See *People v. XXX*, G.R. No. 243988, August 27, 2020.
40 442 Phil. 688 (2002).
41 Supra note 26.

Mental Retardation

LEVEL	DESCRIPTION TERM	INTELLIGENCE QUOTIENT (IQ RANGE)
I	Profound Below	20
II	Severe	20-35
III	Moderate	36-52
IV	Mild	53-68

A normal mind is one which in strength and capacity ranks reasonably well with the average of the great body of men and women who make up organized human society in general, and are by common consent recognized as sane and competent to perform the ordinary duties and assume the ordinary responsibilities of life.

The traditional but now obsolescent terms applied to those degrees of mental retardation were (a) idiot, having an IQ of 0-19, and a maximum intellectual factor in adult life equivalent to that of the average two-year old child; (b) *imbecile* by an IQ of 20 to 49 and a maximum intellectual function in adult life equivalent to that of the average seven-year old child; (c) *moron* or *feebleminded*, having an IQ of 50 to 69 and a maximum intellectual function in adult life equivalent to that of the average twelve-year old child. Psychiatrists and psychologists apply the term "borderline" intelligence to those with IQ between 70 to 89. In *People v. Palma*, we ruled that a person is guilty of rape when he had sexual intercourse with a female who was suffering from a "borderline mental deficiency.

The mental retardation of persons and the degrees thereof may be manifested by their overt acts, appearance, attitude and behavior. The dentition, manner of walking, ability to feed oneself or attend to personal hygiene, capacity to develop resistance or immunity to infection, dependency on others for protection and care and inability to achieve intelligible speech maybe indicative of the degree of mental retardation of a person. Those suffering from severe mental retardation are usually undersized and exhibit some form of facial or body deformity such as mongolism, or gargolism. The size and shape of the head is indicative of microphaly. The profoundly retarded may be unable to dress himself, or wash or attend to bowel and bladder functions so that his appearance may be very unclean and untidy unless they receive a great deal of nursing care. There may be marked disturbance of gait and involuntary movements. Attempts to converse with a mental retardate may be limited to a few unintelligible sounds, either spontaneous or in response to attempts that are made by the examiner to converse, or may be limited to a few simple words or phrases. All the foregoing may be testified on by ordinary witnesses who come in contact with an alleged mental retardate.[42]

The ruling in *Dalandas* still finds relevance in characterizing mental retardation. Nevertheless, contrary to its seeming implication, the evaluation of the degrees of mental retardation cannot be confined into specific levels based only on intelligence quotient or IQ. In real life setting, the

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42 *People v. Dalandas*, supra note 40 at 695-697.

determination of the varying levels of mental retardation is much more complicated and is the product of consideration of numerous factors that differs from person to person.

The American Psychiatric Association describes mental retardation as follows: "[t]he essential feature of Mental Retardation is significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety."[43] From this definition, it is clear that IQ test determines only a person's intellectual capacity and is only one determinant of mental retardation. A person with an IQ that is below 70 is not necessarily mentally retarded. Mental retardation also entails significant limitations in two or more of the basic skill areas necessary to cope with the requirements of everyday life expected for one's age level and cultural group.[44] Thus, a person's IQ score is not decisive of a person's mental age.[45]

In *People v. Cartuano, Jr.*,[46] the Court explained that "[m]ental retardation is a clinical diagnosis which requires demonstration of significant subaverage intellectual performance (verified by standardized psychometric measurements); evidence of an organic or clinical condition which affects an individual's intelligence; and proof of maladaptive behavior."[47]

The existence of mental retardation, more so its severity, is therefore not readily apparent or discernable as it is a combination of numerous attendant factors. It is largely scientific.[48] Consequently, a diagnosis of mental retardation must be anchored on a thorough evaluation based on the subject's history, and on the physical, psychological, and laboratory examination made by a clinician.[49] Evidence must be adduced to aid the court in determining not only the existence of the illness and its level of

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43 AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 41 (4th ed. 2000).

44 Mental Retardation: An Overview, Available at https://www.hrw.org/reports/2001/ustat/ustat0301-01.htm#P234_31848; Last Accessed on October 14, 2021 citing H.J. Grossman, ed. *Classification in Mental Retardation* (Washington D.C.: AAMR, 1983), p. 11.

45 Mental Retardation: An Overview, Available at https://www.hrw.org/reports/2001/ustat/ustat0301-01.htm#P234_31848; Last Accessed on October 14, 2021 citing Fred J. Biasini, et al., *Mental Retardation: A Symptom And A Syndrome*, in S. Netherton, D. Holmes, & C. E. Walker, eds., COMPREHENSIVE TEXTBOOK OF CHILD AND ADOLESCENT DISORDERS (New York: Oxford University Press, 2000) and Patricia Perez-Arce, Ph.D., *Neuropsychological Evaluation of Luis Mata*, January 27, 1992; Available at https://www.hrw.org.

46 325 Phil. 718 (1996).

47 Id. at 747.

48 See *People v. Madarang*, 387 Phil. 846, 853 (2000).

49 Id.; *People v. Cartuano, Jr.*, supra note 46 at 748-749; *People v. Bermas*, 854 Phil. 556, 571-572 (2019).

severity but as well of its manifestations and the corresponding mental age of the subject.

The determination of mental retardation, particularly, the degrees thereof, is deeply rooted in medical psychology; as such, courts are largely dependent upon psychometric evaluation. It is true that such mental condition can be proved by evidence other than medical and clinical evidence, such as the testimony of witnesses and the observation of the trial court.[50] This may be sufficient when the issue is the ability of a subject to testify in court or to stand trial, the only consideration being the ability to comprehend the questions propounded and to respond to the same intelligibly.

However, when the determination of mental disability constitutes as an element of the crime of rape,[51] or when the victim's mental age is necessary in characterizing whether carnal knowledge can be considered as statutory rape, or when mental disability relates to the capacity of the accused to commit the crime; the same must be medically defined and specified, over which the court must rely upon the findings and evaluation of experts in the field, social workers, or persons close to the subject sufficiently averring circumstances to depict the mental development and status. In the same way, the Court cannot merely rely upon the comparative classification of mental age *vis-à-vis* the level of mental retardation of a person provided for in *Dalandas*[52] as past cases show us that mental aging is variable.[53] And ultimately, the conviction of an accused of rape based on the mental retardation of the victim must be anchored on proof beyond reasonable doubt[54] and not on mere inferences.[55]

Courts cannot hastily resort to deductive reasoning with respect to the proper designation of the crime. The rule must be that in order to be properly appreciated, mental retardation, particularly when disputed, whether of the victim or of the accused, must be sufficiently characterized by adducing evidence stating the intelligence quotient, manifestations of the illness, and mental age.

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50 *People v. Bayrante*, supra note 26 at 427; *People v. Dumanon*, 401 Phil. 658, 669-670 (2000); *People v. Almacin*, 363 Phil. 18, 28 (1998).

51 See *People v. Bermas*, supra note 49 at 574-575.

52 Supra note 40.

53 See *People v. Maza*, G.R. No. 225058, January 22, 2020, where the victim was found to be suffering from mild mental retardation with a mental age of an 11-year-old child; *People v. Deniega*, supra note 33, where the victim was found to be suffering from moderate mental retardation, with an IQ of 43 and with a mental age of a six-year-old child; *People v. Antonio*, 303 Phil. 291, 305-306 (1994), where the victim was found to be suffering from mild mental retardation with a mental age of a seven-year-old child.

54 See *People v. Catig*, G.R. No. 225729, March 11, 2020, 935 SCRA 492, 509.

55 *People v. Barrera*, G.R. No. 230549, December 1, 2020.

The nature of a crime including its mode of commission must be sufficiently alleged as to allow the accused to adequately prepare for his or her defense. This requirement is vital in all criminal prosecutions as it is deeply rooted on one's constitutional rights to due process and presumption of innocence. While, admittedly, the penalty provided for by law is the same in any of the circumstances under Article 266-A(1) of the RPC,[56] this fact alone does not diminish the substance of the requirement nor of the importance of the rule's observance.

Whereas, a victim's chronological age is factual and evidentiary in nature, which must be established by evidence during trial.[57] Comparatively, the same also holds true even more with the determination of the mental age of a person suffering from mental retardation as it is primarily a scientific and a medical issue. As such it must be properly characterized and substantiated by medical evaluation or by adequate proof external manifestations of the person allegedly suffering from mental retardation.[58]

It must be emphasized nonetheless, that similar to "expert testimonies," courts are not bound by the medical findings.[59]

> [Courts] may place whatever weight they choose upon such testimonies in accordance with the facts of the case. The relative weight and sufficiency of expert testimony is peculiarly within the province of the trial court to decide, considering the ability and character of the witness, his actions upon the witness stand, the weight and process of the reasoning by which he has supported his opinion, his possible bias in favor of the side for whom he testifies, and any other matters which serve to illuminate his statements.[60]

Ultimately therefore, it is the trial court, after proper hearing during which it has the opportunity to observe the demeanor of the persons involved, examined the evidence including the medical findings as to mental status, and evaluated the issues in view of the attendant circumstances of the case, that must make a conclusion as to the mental disability of a party.[61] While the Court, in some cases involving this issue, has expressed its opinion on matters within the same field,[62] the consensus remains in that the

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56 Article 266-B. *Penalty.*- Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua.*

57 *People v. Pruna,* 439 Phil. 440, 468 (2002).

58 RULES OF COURT, Rule 130, Section 49.

Section 49. *Opinion of expert witness.* - The opinion of a witness on a matter requiring special knowledge, skill, experience or training which he is shown to possess, may be received in evidence.

59 See *Ilao-Quianay v. Mapile,* 510 Phil. 736, 746-747 (2005).

60 Id.

61 See *People v. Butiong*, 675 Phil. 621, 627 (2011).

62 See *Sps. Imbong, et al. v. Hon. Ochoa, Jr. et al.*, 732 Phil. 1, 197 (2014).

trial court is still in the best position to evaluate and pass upon the matter after a full-blown trial on the merits.[63]

II.C.

Going back to the issue in the instant controversy, what then is the proper designation of the crime when the mental retardation of the victim is undisputed, or properly alleged and proven but without any characterization of the corresponding mental age?

Following the ruling in the cases of *Castillo* and *Quintos,* the determination of whether rape may be classified under Article 266-A(1)(d) depends on the victim's chronological age or mental age. Age, chronological or mental for that matter, is an element of the offense of statutory rape and therefore must be established beyond reasonable doubt during trial.

The accused-appellant cannot be held liable under Article 266-A (1) subparagraph (d) of the RPC as the mental age of the victim was not established. Rather, more appropriately, the accused-appellant is liable under subparagraph (b) having had carnal knowledge with AAA, who is "deprived of reason" a term which encompasses those suffering from mental deficiency or retardation.[64]

To be clear, while the Court in *Castillo* held that the carnal knowledge with a mental retardate whose mental age is below 12 years old is statutory rape under paragraph 1(d), Article 266-A of the RPC, as amended; it did not however preclude that a person suffering from mental retardation can be categorized as one deprived of reason.

In here, that AAA is a mental retardate is undisputed. It was also proven during trial that she is unable to understand questions propounded to her, and cannot respond comprehensibly.[65] As AAA cannot communicate, she is unable to go to school.[66] Without any clear indication of her mental age, therefore, what remains is AAA's inability to resist, make decisions, and give consent. With this, it is most reasonable to conclude that she is a person deprived of reason.[67]

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63 See *Forietrans Manufacturing Corp., et al. v. Davidoff Et. Cie SA & Japan Tobacco, Inc.*, 806 Phil. 704, 721-722 (2017).

64 *People v. Dalan*, 736 Phil. 298, 302-303 (2014).

65 TSN, July 14, 2009, p. 8.

66 TSN, January 21, 2009, pp. 3, 12.

67 See *People v. Quintos*, supra note 34 at 829-830.

All told, in the absence of proof showing that the mental age of the victim is below the legal age of sexual consent,[68] the sexual intercourse with a victim suffering from mental disability cannot be considered as statutory rape within the purview of Article 266-A(1) subparagraph (d) of the RPC, as amended. However, it being clear that AAA's "moderate retardation"[69] affected her ability to give consent, carnal knowledge with her amount to rape under subparagraph (b) of the same Code or against a woman "deprived of reason."[70]

III.

For his part, the accused-appellant's main defense is that the prosecution failed to prove the elements of the crime charged, particularly, that carnal knowledge took place and that he employed force and intimidation in raping AAA. The accused-appellant argued that the allegations cannot stand based on what BBB witnessed, which is at best circumstantial as she did not actually saw any act of sexual intercourse. Similarly, AAA's testimony is sorely lacking in details utterly insufficient to establish with moral certainty that he is guilty of the crime charged. [71]

The arguments fail to persuade the Court.

The trial court's assessment and evaluation of the credibility of witnesses *vis-à-vis* their testimonies are upheld as a matter of course by the appellate courts in view of its direct, immediate, and first-hand opportunity to observe the deportment of witnesses as they delivered their testimonies in open court. Thus, in the absence of showing that the trial court overlooked, misapprehended, or misinterpreted some facts of weight or substance, the trial court's findings in this respect, are binding and conclusive upon this Court.[72]

The circumstances testified to by the prosecution witnesses, which are corroborated by the medical findings attesting that AAA sustained "a complete transection" of her hymen[73] lead to no other conclusion than that the crime of rape was committed. Taken together with the identification of the accused-appellant as the perpetrator of the offense, the accused-appellant's defense of denial, must fail. An unsubstantiated denial is a

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68 REVISED PENAL CODE, Article 266-A1(d), as amended by Republic Act No. 8353, THE ANTI-RAPE LAW OF 1997, and amended further by Republic Act No. 11648, signed into law on March 4, 2022.

69 Records, p. 27.

70 Cf. *People v. Bermas*, supra note 49 at 574-575.

71 CA *rollo*, pp. 21-25.

72 *People v. Masubay*, G.R. No. 248875, September 3, 2020, 949 SCRA 443, 453; *People v. Gabriel*, 807 Phil. 516, 527 (2017).

73 Records, p. 8, Medico-Legal Certificate.

negative self-serving evidence which cannot prevail over the affirmative testimony of a credible witness.[74]

IV.

Apart from denial, an important factor that is crucial in determining the accused-appellant's liability in this case, is his mental condition. Oddly, the CA merely ignored this fact. It is worthy to note that although not raised as a defense in the appellant's brief, the defense was raised below, and ultimately, may be ruled upon by the Court owing to the nature of this case.

> It is well-settled 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.[75]

In his submission before the RTC, the accused-appellant argued that he should be exempted from criminal liability as similar to AAA, he is also suffering from mental retardation.[76]

In the course of trial, the court ordered the examination of the accused-appellant,[77] who was then brought to the Psychiatry Department of the Davao Medical Center, where he was evaluated and examined by Dr. Paolo Woodruf Gonzales (Dr. Gonzales). Dr. Gonzales testified and affirmed the contents of the diagnosis of the accused-appellant's mental condition as contained in a Medical Certificate[78] dated April 13, 2010, particularly that the accused-appellant is suffering from mild mental retardation with a mental age of a nine-year old.[79]

In his Concurring and Dissenting Opinion, Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa), raised questions as to the proper treatment of the defense of mental retardation by the accused-appellant. According to Justice Caguioa, considering that the accused-appellant's claim that he has a mental age of nine years old, what he is essentially invoking is the defense of youth and immaturity under the second and third paragraphs

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74 *People v. Salazar,* G.R. No. 239138, February 17, 2021.
75 *People v. Bernardo,* G.R. No. 242696, November 11, 2020.
76 Records, p. 121, Judgment.
77 Id. at 22 and 28. Order dated August 21, 2008 and October 14, 2008.
78 Id. at 80-81, Letter dated April 14, 2010 and Medical Certificate dated April 13, 2010.
79 TSN of Hearing dated July 12, 2010, p. 6.

of Article 12[80] of the RPC, as amended by R.A. No. 9344 or the Juvenile Justice and Welfare Act[81] (hereinafter referred to as immaturity exemption).

Justice Caguioa explained that-

> While both insanity and immaturity defenses in criminal proceedings are anchored on defects in the *mens rea*, these defenses remain separate in that insanity is rooted in either the absence of freedom of action or absence of intelligence, while immaturity is always connected with the absence of intelligence. As *People v. Renegado* succinctly summarized, "[i]n the eyes of the law, **insanity exists** when there is a complete deprivation of intelligence in committing act, that is, the accused is **deprived of reason, he acts without the least discernment** because there is a complete absence of the power to discern, **or** that there is a total **deprivation of freedom of the will.**" In contrast, the defense of immaturity is always dependent on the presence of discernment, *i.e.* in the mental capacity of the accused to understand the difference between right and wrong.
>
> Stated differently, the tenability of the immaturity defense revolves around the ability of the actor to exercise discernment while doing the act in question. In contrast, insanity defenses do not simply involve an analysis of the actor's intelligence; at times, it is necessary to delve into the willfulness of the person's actions. This is the reason why "insane persons" may still be criminally liable when they did the acts in question during a lucid interval.
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> x x x x
>
> The very spirit that animates *Quintos* and *Castillo* – which, to stress, are themselves relied upon by the *ponencia* – should be applied here. A determination (or at least an allegation) pertaining to a person's mental age transforms the discussion from one of insanity to one of immaturity. To illustrate, when the victim's mental age is brought up, and

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80 ARTICLE 12. *Circumstances Which Exempt from Criminal Liability.* —The following are exempt from criminal liability:

x x x x

2. A person under nine years of age.

3. A person over nine years of age and under fifteen, unless he has acted with discernment, in which case, such minor shall be proceeded against in accordance with the provisions of article 80 of this Code.

When such minor is adjudged to be criminally irresponsible, the court, in conformity with the provisions of this and the preceding paragraph, shall commit him to the care and custody of his family who shall be charged with his surveillance and education; otherwise, he shall be committed to the care of some institution or person mentioned in said article 80.

81 SECTION 6. *Minimum Age of Criminal Responsibility.* — A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

> immaturity. To illustrate, when the victim's mental age is brought up, and especially when it is proven, the Court no longer inquires as to the severity of the victim's mental retardation to determine whether such retardation reaches the threshold of being "deprived of reason" under Article 266-A, paragraph 1(b) of the RPC. The entire case is then viewed from the lens of a statutory rape charge, with the mental age of the victim equated as the victim's chronological age.[82] (Citations omitted and emphasis in the original)

The *ponencia* espouses a contrary view. The accused-appellant's defense should be viewed under paragraph 1, Article 12 of the RPC which governs the exemption of an imbecile or an insane person (hereinafter referred to as mental disability exemption), *viz.*:

> **Article 12.** *Circumstances which exempt from criminal liability.* - the following are exempt from criminal liability:
>
> 1. An imbecile or an insane person, unless the latter has acted during a lucid interval.
>
> x x x x

The bases for exemption and post-conviction treatment between the minority and mental disability exemptions, bolster this conclusion.

IV. A.

As the Court pronounced in *People v. Paña*,[83] the standard of "legal insanity," as it refers to paragraph 1, Article 12 of the RPC should not be viewed as an "all-or-nothing" concept. The term "insanity" should embrace all mental illnesses characterized by

> a manifestation in language or conduct of disease or defect of the brain, or a more or less permanently diseased or disordered condition of the mentality, functional or organic, and characterized by perversion, inhibition, or disordered function of the sensory or of the intellective faculties, or by impaired or disordered volition.[84]

As cited by Justice Caguioa in his Concurring and Dissenting Opinion, in the eyes of the law, a person is deemed legally insane when ***either*** of these two conditions subsist: 1) when there is a complete deprivation of intelligence on the part of the person committing the act, that

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82 Concurring and Dissenting Opinion, pp. 4-5.

83 G.R. No. 214444, November 17, 2020.

84 Id.; citing *People v. Ambal*, 188 Phil. 372, 377 (1980), further citing 1917 REV. ADM. CODE, Section 1039.

absence of the power to discern; or 2) when there is a total deprivation of the freedom of the will.[85] Notably, to be viewed as legally insane, the occurrence of one of these circumstances suffice. The condition need not be characterized by both. Therefore, that the mental disability of the accused relates only to his power to discern, does not automatically remove it within the ambit of "legal insanity."

The concept of insanity as enunciated in *Paña* admits and recognizes that mental illnesses and disorders cannot be confined into a rigid definition. The contemporary view is that mental illnesses and disorders are evolving concepts which cannot be restricted into specific types or confined based on definite indices.

IV. B.

There is basis for the variance in treatment as to the attendance of mental retardation in the case of the accused, and that of the victim.

In the case of mental retardation of the victim, as previously elucidated, the allegation of mental age spells the difference as to the designation of rape committed– whether it is statutory rape under Article 266-A(1) subparagraph (d), or rape committed against a person deprived of reason under subparagraph (b) of the same Article.

Following the ruling in *Castillo*,[86] carnal knowledge with a mental retardate whose mental age is below 12 years old is statutory rape under paragraph 1(d), Article 266-A of the RPC, as amended. However, as previously elucidated, when a victim's mental retardation is established but has not been equated to a specific mental age, rape is categorized as one having been committed against "deprived of reason"; as the attendance of mental retardation affects the victim's reasoning, capacity to resist, make decisions, and give consent.[87]

A necessary implication based on the conclusion reached in the preliminary issue, is that "mental retardation" remains to be embraced within the term "deprived of reason" or insanity.[88] This is because while *most* cases of mental retardation involves only a defect in understanding, there are instances where it involves mental illness, depending on its gravity and manifestations.[89]

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85 *People v. Renegado*, 156 Phil. 260. 280 (1974).
86 Supra note 31.
87 *People v. Quintos*, supra note 34.
88 Id. at 830.
89 *Van Tran v. State*, 66 S.W.3d 790, 2001 Tenn. LEXIS 820 (Tenn. December 4, 2001).

Notably, in contrast to the employment of the terms– "demented" and "deprived of reason" when referring to the victim's mental state; the RPC uses the terms "imbecile" and "insane" with respect to the accused's exemption from liability.

As defined in *Quintos*,[90] a person is "demented" when she suffers from a mental condition called dementia. The term "deprived of reason," on the other hand is associated with insanity or madness. It refers to a woman with mental abnormalities that affect her reasoning and perception of reality, and consequently, her capacity to resist, make decisions, and give consent.[91]

Conversely, the enumeration of exempting circumstances in Article 14 of the RPC uses the terms: "imbecile" and "insane." An imbecile is a person marked by *mental deficiency* while an insane person is one who has an unsound mind or suffers from a *mental disorder*.[92] In order that a person may be considered imbecile and therefore exempted from liability, he or she must be deprived completely of reason or discernment and freedom of will at the time of committing the crime. Similarly, in order that insanity may be taken as an exempting circumstance, there must be a complete deprivation of intelligence in the commission of the act or that the accused acted without the least discernment.[93] In both instances, the absence of discernment or will under the mental disability exemption is due to an underlying mental defect or illness which renders the perpetrator of the crime unable to control his or her impulse to do the criminal act and to comprehend the nature and consequences thereof.

While seemingly synonymous, the terms "imbecile" and "insane" import different mental conditions, but together embraces the spectrum of mental deficiencies and illnesses. This distinction is crucial when mental retardation affects the intellect but does not amount to insanity or a mental illness. The previously cited case of *Dalandas*,[94] illustrates the contrast.

The Court in *Dalandas* explained the concept of mental retardation as a defect in intellectual function which is traditionally classified into various degrees: (a) **idiot**, having an IQ of 0 to 19, and a maximum intellectual factor in adult life equivalent to that of the average two-year old child; (b) **imbecile** by an IQ of 20 to 49 and a maximum intellectual function in adult life equivalent to that of the average seven-year old child; (c) **moron or feebleminded**, having an IQ of 50 to 69 and a maximum intellectual

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90 Supra note 34.
91 Id. at 830.
92 *People v. Ambal*, supra note 84 at 377. (Citing 1 Viada, Codigo Penal, 4th Ed., p.92).
93 Id. at 382.
94 Supra note 40.

function in adult life equivalent to that of the average twelve-year old child; and (d) **borderline intelligence** to those with IQ between 70 to 89.[95]

However, these terms to indicate various degrees of mental retardation are no longer used because of their negative connotation, and the classification rendered obsolete by the evolving understanding that mental retardation cannot be confined into specific levels solely on the basis of the person's IQ.[96]

Nevertheless, *Dalandas* instructs that the term imbecile is used synonymously to refer to people with a certain degree of mental retardation, which is then embraced within the broader concept of intellectual disability.[97] It is distinguished from a person who is insane in that in the latter, criminal liability would depend on whether the perpetrator acted during a lucid interval; whereas a mental retardate's responsibility would depend on the level of their intellectual disability.

Succinctly, the law recognizes that while mental retardation is a form of mental disability, it does not altogether automatically exempt a person from criminal liability. The varying degrees or levels of mental retardation admit that a person may be possessed of sufficient discernment or intelligence to appreciate the nature of a criminal act and its consequences. Hence, the law requires that the intellectual disability be at least in the level of an "imbecile" to be exempt from criminal liability.

In *People v. Formigones*,[98] the Court rejected the accused's defense that he is imbecile and noted that he was only suffering from feeblemindedness and could distinguish right from wrong. In determining the intellectual capacity of the accused, the Court noted that

> "during his marriage of about 16 years, he has not done anything or conducted himself in anyway so as to warrant an opinion that he was or is an imbecile. He regularly and dutifully cultivated his farm, raised five children, and supported his family and even maintained in school his children of school age, with the fruits of his work. Occasionally, as a side line he made copra."[99]

Hence, in *Formigones*, the Court concluded the accused's act of killing his wife was a result of jealously rather than a disordered mind. As

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95 Id. at 696.

96 *Wimp v. Am. Highway Tech.*, 51 Kan. App. 2d 1073, 360 P.3d 1100, 2015 Kan. App. LEXIS 72 (Kan. Ct. App. October 23, 2015).

97 See also *People v. Castro*, 653 Phil 471, 484 (2010).

98 87 Phil. 658 (1950).

99 Id. at 662.

evinced by the Court's ruling in this case, "imbecility" is recognized as a level of mental retardation or intellectual disability. Therefore, rather than making an inquiry whether the crime was committed during a lucid interval, the Court determined the intellectual capacity of the accused.

The use of the term "imbecile" then evince the law's intent to embrace forms of intellectual disability which renders a person unable to resist and/or discern the nature and consequences of a criminal act, but where the deficiency is not tantamount to a mental illness as in insanity.

Unlike in the case of minority therefore which uses only "deprived of reason" to encompass all mental defects and illnesses, there is no reason to classify mental retardation in "minority" inasmuch as it is already clearly embraced by the term "imbecile" used by Article 12, paragraph 1 of the RPC.

IV. C.

The determination of whether mental retardation should be classified under the mental disability exception or minority exception, should be made in the light of the basis for the absolution, as well as the measures to be implemented post determination of responsibility of persons under these categories.

Minority as an exempting circumstance both under the old law and its amendment under R.A. No. 9344 is intended for the promotion and protection of the rights of a "child in conflict with the law" or a "child at risk" by providing a system that would ensure that children are dealt with in a manner appropriate to their well-being through a variety of disposition measures other than institutional care. The basis for the exemption is the presumption that minor offenders completely lack the intelligence to distinguish right from wrong, so that their acts are deemed involuntary ones for which they cannot be held accountable.[100]

The exemption of minors from criminal liability is also rooted on the principle of restorative justice. Minors within the ages of 9 to 15 years are considered as within their formative years and are given a chance to right their wrong through diversion and intervention measures.[101] The law is geared towards the rehabilitation and reintegration of the child in conflict with the law to the end that they regain kindred ties with their families and help them become more productive members of their own communities.[102]

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100 *Sierra v. People*, 609 Phil. 446, 461-462 (2009).

101 Id.

102 REPUBLIC ACT NO. 9344, Section 2d; Plenary Hearing on R.A. No. 9344, February 13, 2006, pp. 4 and 8.

Thus, a vital component of exemption from criminal liability under this instance is the acknowledgement of the minor's ability to rehabilitate.

On the other hand, insanity, as a defense, is rooted on the basic moral assumption of criminal law that man is naturally endowed with the faculties of understanding and free will. "The consent of the will is that which renders human actions laudable or culpable. Hence, where there is a defect of the understanding, there can be no free act of the will." An insane accused, by reason of his or her mental state, lacks control over his or her behavior and cannot be deterred from similar behavior in the future. Therefore, the law sees no reason to impose punishment as the accused lacks understanding of the moral implications of the criminal act.[103] Simply, the exemption is based on the fact that the criminal act was done under an overwhelming and irresistible impulse as a result of a mental disease or defect.[104]

The condition of a minor, in that the presumption is that they can be rehabilitated, is in marked contrast with the situation of a person suffering from mental disability or illness, in that the latter, while there may be moments of lucid interval or instances in which the perpetrator is possessed of sufficient discernment to understand the consequences of the criminal act, the condition is nevertheless permanent. The mental defect or disorder is irreversible and does not improve but can only be managed over time.

More importantly, rather than a mere issue of determining the proper designation of the crime of rape, the classification of the accused-appellant's mental disability defense would determine the difference as to his treatment after the verdict of guilt.

R.A. No. 9344 sets forth the treatment of a child in conflict with the law, *viz.*:

TITLE I
GOVERNING PRINCIPLES

CHAPTER 2
PRINCIPLES IN THE ADMINISTRATION OF JUVENILE JUSTICE AND WELFARE

> **SEC. 6. *Minimum Age of Criminal Responsibility.*** - A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

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103 *People v. Madarang*, supra note 48 at 855-856.

104 *Rozier v. State*, 185 Ga. 317, 195 S.E. 172, 1938 Ga. LEXIS 433 (Ga. January 11, 1938).

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

TITLE IV
TREATMENT OF CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY

SEC. 20. ***Children Below the Age of Criminal Responsibility.*** - If it has been determined that the child taken into custody is fifteen (15) years old or below, the authority which will have an initial contact with the child has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. Said authority shall give notice to the local social welfare and development officer who will determine the appropriate programs in consultation with the child and to the person having custody over the child. If the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody, the child may be released to any of the following: a duly registered nongovernmental or religious organization; a barangay official or a member of the Barangay Council for the Protection of Children (BCPC); a local social welfare and development officer; or when and where appropriate, the DSWD. If the child referred to herein has been found by the Local Social Welfare and Development Office to be abandoned, neglected or abused by his parents, or in the event that the parents will not comply with the prevention program, the proper petition for involuntary commitment shall be filed by the DSWD or the Local Social Welfare and Development Office pursuant to Presidential Decree No. 603, otherwise known as "The Child and Youth Welfare Code".

TITLE V
JUVENILE JUSTICE AND WELFARE SYSTEM

x x x x

CHAPTER 2
DIVERSION

SEC. 23. ***System of Diversion.*** - Children in conflict with the law shall undergo diversion programs without undergoing court proceedings subject to the conditions herein provided:

(a) Where the imposable penalty for the crime committee is not more than six (6) years imprisonment, the law enforcement officer or Punong Barangay with the assistance of the local social welfare and development officer or other members of the LCPC shall conduct mediation, family conferencing and conciliation and, where appropriate, adopt indigenous modes of conflict resolution in accordance with the best interest of the child with a view to accomplishing the objectives of restorative justice and

> the formulation of a diversion program. The child and his/her family shall be present in these activities.
>
> (b) In victimless crimes where the imposable penalty is not more than six (6) years imprisonment, the local social welfare and development officer shall meet with the child and his/her parents or guardians for the development of the appropriate diversion and rehabilitation program, in coordination with the BCPC;
>
> (c) Where the imposable penalty for the crime committed exceeds six (6) years imprisonment, diversion measures may be resorted to only by the court.

Based on the foregoing, a child in conflict with the law below 15 years old shall be released to his or her parents, guardian, or accredited institutions subject to immersion to appropriate intervention or prevention programs. The same holds true for a child over 15 but under 18 years of age who acted without discernment. However, when the child is above 15 years old and acted with discernment, the penalty determines the measures to be undertaken, all geared towards to the rehabilitation of the child through diversion programs.[105]

In contrast, when the court determined that the imbecile or insane person has committed the crime, it shall order his or her confinement in one of the hospitals or asylums established for persons thus afflicted, in which he or she shall remain unless otherwise permitted by the same court.[106]

In this respect, while it is more convenient to merely apply by analogy the ruling in *Castillo* in the case of the mental retardate accused with a specific mental age, to do so would disregard the consequences of the classification. More than a mere issue of nature of the crime committed, the proper categorization of the accused's mental condition dictates the process that will follow post-determination that he committed the crime. Simply, the marked treatment of the law with respect to children in conflict with the law and insane offenders, highlights that mental retardation should be viewed as it is, a mental disorder which demands psychological/psychiatric intervention rather than rehabilitation.

V.

In view of the foregoing, the Court then proceeds to discuss the accused-appellants mental disability defense.

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105 Section 22 in relation to Section 23, Republic Act No. 9344.

106 REVISED PENAL CODE, Article 12, paragraph. 1.

The test in determining exemption from criminal liability under paragraph 1, Article 12 of the RPC whether in the case of an imbecile or an insane, is the same inasmuch as both deal with the complete absence of intelligence in committing the criminal act. Both require an evaluation of the mental condition of the accused. The only difference is that in mental retardation, the examination is whether the mental capacity of the accused is to the level of an "imbecile" whereas in insanity, the query is whether the crime was committed not during a lucid interval.

Hence, testing the accused-appellant's submission that he should be absolved of criminal responsibility because he is suffering from mental retardation in light of jurisprudence dealing with "insanity defense," the Court finds the argument unmeritorious.

In *People v. Opuran*,[107] the Court, analyzing cases in which the accused raised the defense of insanity, opined:

> Insanity is evinced by a deranged and perverted condition of the mental faculties which is manifested in language and conduct. However, not every aberration of the mind or mental deficiency constitutes insanity. As consistently held by us, "A man may act crazy, but it does not necessarily and conclusively prove that he is legally so." Thus, we had previously decreed as insufficient or inconclusive proof of insanity certain strange behavior, such as, taking 120 cubic centimeters of cough syrup and consuming three sticks of marijuana before raping the victim; slurping the victim's blood and attempting to commit suicide after stabbing him; crying, swimming in the river with clothes on, and jumping off a jeepney.
>
> The stringent standard established in *People v. Formigones* requires that there be a complete deprivation of intelligence in committing the act, *i.e.*, the accused acted without the least discernment because of a complete absence of the power to discern or a total deprivation of the will.
>
> In *People v. Rafanan, Jr.*, we analyzed the *Formigones* standard into two distinguishable tests: (a) the test of cognition – whether there was a "complete deprivation of intelligence in committing the criminal act" and (b) the test of volition – whether there was a "total deprivation of freedom of the will." We observed that our case law shows common reliance on the test of cognition, rather than on the test of volition, and has failed to turn up any case where an accused is exempted on the sole ground that he was totally deprived of the freedom of the will, *i.e.*, without an accompanying "complete deprivation of intelligence." This is expected, since a person's volition naturally reaches out only towards that which is represented as desirable by his intelligence, whether that intelligence be diseased or healthy.[108] (Citations omitted)

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107 469 Phil. 698 (2004).

108 Id. at 712-713, citing *People v. Formigones*, supra note 98 at 661 and *People v. Rafanan, Jr.*, 281 Phil. 66, 79-80 (1991).

In this jurisdiction, therefore, for insanity to be considered as an exempting circumstance, there must be a complete deprivation of intelligence. The accused must have acted without the least discernment because of a complete absence of the power to discern. Mere abnormality of the mental faculties will not exclude imputability.[109]

The law presumes that every person is of sound mind[110] and that all acts are voluntary. "The moral and legal presumption under the law is that freedom and intelligence constitute the normal condition of a person."[111] Hence, anyone who pleads the contrary bears the burden to adduce evidence to prove it. In criminal cases, the accused who interposes the defense of insanity has the burden to prove by clear and convincing evidence, that he or she is completely deprived of reason at the time of commission of the crime charged. Evidence of the accused's insanity must relate to the time immediately preceding or simultaneous with the commission of the offense.[112]

In this sense, insanity is not synonymous with mental retardation. The former is a mental illness, while a mentally retarded person may or may not have a mental illness.[113] Complete deprivation of intelligence that characterizes insanity as an exempting circumstances entails a "defect in understanding such that the accused must have no full and clear understanding of the nature and consequences of their acts."[114] Whereas, previously discussed, mental retardation merely involves a diminished capacity "to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand others' reactions."[115] Thus, it has been held that a mentally retarded person may be a credible witness. The value of his or her testimony depends on the quality of his or her perceptions and the manner he or she can make them known to the court.[116]

In the recent case of *Paña*,[117] the Court *En Banc* established a three-way test, in that an accused's defense of insanity may prosper if the following concur: (1) the accused was unable to appreciate the nature and quality or the wrongfulness of his or her acts; (2) the inability occurred at the

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109 *People v. Madarang*, supra note 48 at 859.
110 CIVIL CODE, Article 800.
111 *People v. Estrada*, 389 Phil. 216, 231 (2000).
112 *People v. Paña*, supra note 83; *People v. Roy*, 836 Phil. 920, 929-930 (2018).
113 *Van Tran v. State*, 66 S.W.3d 790, 2001 Tenn. LEXIS 820 (Tenn. December 4, 2001).
114 *People v. Paña*, supra.
115 *Atkins v. Virginia*, 536 U.S. 304, 122 S. Ct. 2242, 153 L. Ed. 2d 335, 2002 U.S. LEXIS 4648, 70 U.S.L.W. 4585, 2002 Cal. Daily Op. Service 5439, 2002 Daily Journal DAR 6937, 15 Fla. L. Weekly Fed. S 397 (U.S. June 20, 2002)
116 *People v. Macapal, Jr.*, 501 Phil. 675, 687-688 (2005).
117 Supra note 83.

time of the commission of the crime; and (3) it must be as a result of a mental illness or disorder.

Applying the test in this case, the accused-appellant cannot claim exemption based on insanity as he was adjudged only to be suffering from diminished mental capacity, or particularly, mild mental retardation.[118] The implication is that at the time of his examination on April 13, 2010, he was not fit to stand trial, but not necessarily that he absolutely lacked intelligence or discernment at the time of the commission of the criminal act.

Dr. Gonzales of the Davao Medical Center-Psychiatry Department, who conducted an examination on the accused-appellant, explained that the latter's mental retardation merely renders him unable to undergo stressful activities like court proceedings. However, he could discern right from wrong.[119] The evaluation of Dr. Gonzales on the nature and degree of the accused's mental state are accorded great evidentiary value owing to the specialized knowledge he possesses on that field.[120]

Dr. Gonzales' testimony affirmed and further clarified:

Q Dr., have you seen a patient by the name of Maximo Casanillo, Jr.?
A Yes, ma'am.

Q When was the first time you saw this patient?
A I saw him for the first time last October 15, 2008

Q and who brought the accused to your institution?
A He came in with an officer or jail guard.

Q And how many times have you seen this patient Maximo Casanillo, Jr.?
A I saw him six times and the last time when he came to me scheduled last April 13.

Q And, if you know, what was the reason why the patient was brought to your institution?
A He was brought for evaluation.

Q You conducted an evaluation on the patient?
A Yes, Ma'am, I saw him and I also ordered for a mental aging examination.

Q Was this mental aging examination conducted on the patient?
A Yes, ma'am. Done by our psychologist

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118 Records, p. 80.
119 Id. at 121.
120 *People v. Paña*, supra note 83.

Q And what was the result of the examination?
A The result he has a mental retardation which is only mild. This means that the patient had or he has an intellectual functioning that is below average of intelligence of a normal person. He had a mental aging compared to a nine-year old child.

x x x x

Q Now, you said that the accused has mental retardation which is mild, has a mental age of a nine-year old, how were you able to determine this, Dr.?
A First, we conducted mental aging examination. From that we have a rough idea and we were able to gather the intelligence of the patient from the test and then we correlate it with his functioning… and also from the history and from the background. From that, usually, in the case of a mental retardate like the case of Maximo Casanillo, Jr. he had a late mental milestone, that means, **compared to a normal child he was very late in speaking his first word, in learning to walk, standing up and aside from that based on his educational background he was only able to reach Grade 1.** He could not learn or obtain higher level of their lessons. He could not grasp higher learning and understand it.

x x x x

Q Is mental retardation a form of illness?
A It is not really an illness but it is some sort of a consequence or process that was hindered during development, when the child is still in the womb of the mother.

Q Does he have a capacity to understand right from wrong?
A Yes, ma'am.

Q Does he have the capacity to understand the consequence of any act which he does?
A It depends on the action, like for example, a court proceeding which is very stressful, very tedious and the process is very long. In my opinion, Maximo Casanillo does not know, he does not understand the process of a court proceeding **but for a certain act, daily act, he knows what is right from wrong.**

x x x x

Q Dr., you said that the patient has mild mental retardation are you saying that mental retardation has different levels?
A Yes, ma'am.

Q And the lowest level among the levels is the mild level of Mental retardation
A Yes, ma'am

x x x x

Q Despite having mental retardation, you would say, Dr., that the patient could function normally [like] any person would?
A Yes, ma'am, in terms of self-care... because we have many functions as an individual. As an individual he knows how to relate with other people. **It is just he has little intelligence, little mental capacity**

x x x x

Q Now, would you agree with me, Mr. Witness that even a 9-year old child can testify in court?
A Yes, sir.

Q And you said that you ordered for a mental aging examination, did you get the exact age of Maximo Casanillo when he was referred to you?
A Yes, sir.

Q And at that time, what was his age?
A That of a 9-year old.

Q And at that time, what actually was the age of Maximo Casanillo, when he was brought to you by the jail guard?
A He was 38 years old, that was his chronological age.

Q But in your assessment he has a mental retardation so that he has a mind or understanding similar to that of a 9-year old boy?
A Yes, sir.

Q So that even if he has an understanding similar to that of a 9-year old child, he could still function like any normal person would, correct?
A Yes, sir.

Q He could still take care of himself, only that, but with respect to higher learning he has no patience for that, would you agree?
A Yes, sir.

x x x x

Q You testified a while ago that you issued this medical certificate and you stated here that the patient is not fit to stand trial. We would like to be clarified on this because during cross you said that the patient can stand trial as long as he is aided by counsel, is that what you said, Dr.?
A Yes, ma'am.

Q So this remark which you stated in your medical certificate is, you are now clarifying the remark in your medical certificate that the patient can stand trial as long as he is aided or assisted by counsel, correct?
A Yes, ma'am.

Q You said that the accused has a mental capacity of a 9-year old. He cannot understand Algebra. There are also a lot of people who cannot also understand Algebra. Will you classify that as a mental retardate?
A No, Your Honor.

Q In other words, the accused, because you said he understands right from wrong, has to carry on with his life but his mental mind, he knows whether an action is wrong or right and therefore, because you said that if he is aided by a competent lawyer he can understand, he can stand trial?
A Yes, Your Honor.[121] (Emphasis supplied)

Clearly, from the foregoing, the accused-appellant's mental age, while equated to that of a nine-year-old, does not render him completely deprived of the understanding and reason to comprehend the consequences of his act. Based on the evaluation of Dr. Gonzales, the accused-appellant's disability and mental age equivalence relate only to his capacity to learn and is inconsequential to his capacity to discern the difference between right and wrong. This capacity has not been contested by the accused-appellant and is supported by the fact that the accused-appellant is in fact married to BBB, the sister of AAA, with whom he has a child.[122] In this respect, his capacity as a husband for five years and as a father was never put to question. Neither do the records show that the accused-appellant during his time of cohabitation with BBB performed acts exhibiting lack of reason or discernment. Even an insane person acting during a period of lucid interval may be held liable for a criminal act, all the more when as in this case, there is no complete deprivation of intelligence or control over his conduct, that the guilt of the accused-appellant must be upheld.[123] In fine, "diminished capacity" is not the same as "complete deprivation of intelligence or discernment." And mere abnormality of or diminished mental faculties does not exclude imputability.[124]

Anent the penalty, under Article 266-B of the RPC, rape under paragraph 1 of Article 266-A shall be punished by *reclusion perpetua.* While AAA's mental retardation has been proven and admitted by the accused-appellant, as there is no specific allegation in the Information that the latter knew of AAA's mental disability at the time of the commission of the crime, the same cannot be appreciated as a qualifying circumstance that would increase the penalty.[125]

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121 TSN, July 12, 2010, pp. 5-7, 9, 11-13.
122 TSN, January 21, 2009, p. 10.
123 Cf. *People v. Puno*, 192 Phil. 430, 441 (1981); *People v. Ambal*, supra note 84 at 378.
124 *People v. Racal*, 817 Phil. 665, 679 (2017).
125 See *People v. Catig*, supra note 54 at 509.

On the part of the accused-appellant, while the evidence does not show that he was completely deprived of intelligence or consciousness of his acts when he committed the crime, it was nonetheless established that he was suffering from impairment of his mental faculties, which partly affected his means of action, defense, and communication; thus, entitling him to the mitigating circumstance of diminished will power.[126] At any rate, the appreciation of this mitigating circumstance in favor of the accused-appellant would not have the effect of reducing the penalty as the crime of rape is punishable by the single indivisible penalty of *reclusion perpetua.* As such, it shall be applied regardless of any mitigating circumstance that may have attended the crime.[127]

With respect to the civil liability, the amount imposed by the CA as civil indemnity, as well as moral and exemplary damages are increased to ₱75,000.00 each, in accordance with the Court's ruling in *People v. Jugueta.*[128] The totality of the monetary award shall also earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.[129]

WHEREFORE, in view of the foregoing, the appeal is hereby **DISMISSED**. Accordingly, the Decision dated March 30, 2015, of the Court of Appeals Cagayan de Oro Station in CA-G.R. CR-HC No. 01213-MIN convicting the accused-appellant XXX of the crime of Simple Rape under Article 266-A(1)b in relation to Article 266-B of the Revised Penal Code and imposing upon him the penalty of *reclusion perpetua* is hereby **AFFIRMED with MODIFICATION** in that accused-appellant XXX is **ordered to pay** private complainant AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All of which shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

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126 REVISED PENAL CODE, Article 13, paragraph 9. See *People v. Pantoja*, 821 Phil. 1052, 1068 (2017). See also *People v. Medina*, 349 Phil 718, 731 (1998), citing *People v. Formigones*, supra note 98 at 663.

127 REVISED PENAL CODE, Article 63.

128 783 Phil. 806 (2016).

129 *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

WE CONCUR:
See Concurring & Dissenting Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

JAPAR B. DIMAAMPAO
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.

ALFREDO BENJAMIN S. CAGUIOA
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.

ALEXANDER G. GESMUNDO
Chief Justice