



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

THE PEOPLE OF THE PHILIPPINES, **G.R. No. 243988**
 Plaintiff-Appellee, Present:

- versus -

PERALTA, *CJ.*, Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

XXX,¹
 Accused-Appellant.

Promulgated:

AUG 27 2020

X-----

D E C I S I O N

LOPEZ, J.:

The conviction of the accused for the crime of Rape committed against a mental retardate is the subject of review in this appeal assailing the Decision² dated June 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02447.

ANTECEDENTS

AAA, a 29-year old woman, and XXX were distant relatives and long-time neighbors. Sometime in November 2008, BBB observed that her daughter AAA was constantly feeling sick and vomiting. Thus, BBB asked AAA who confessed her pregnancy and pointed to XXX as the father of the

¹ At the victim's instance or, if the victim is a minor, that of his or her guardian, the complete name of the accused may be replaced by fictitious initials and his or her personal circumstances blotted out from the Decision, Resolution, or Order if the name and personal circumstances of the accused may tend to establish or compromise the victims' identities, in accordance with Amended Administrative Circular No. 83-2015 (III[I][c]) dated September 5, 2017.

² *Rollo*, pp. 4-11; penned by Associate Justice Edward B. Contreras, with the concurrence of Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Louis P. Acosta.

child.³ Together with AAA's father, BBB confronted XXX before the barangay. Thereat, XXX expressed his willingness to marry AAA. However, with AAA's father seething in anger, the plans for marriage did not push through. Still, XXX promised to support the child. Soon, AAA gave birth to a baby girl.

After more than four years or on April 13, 2013, AAA was pasturing a cow when XXX suddenly dragged her into the shrubs. XXX removed AAA's underwear, covered her mouth with clothes, and went on top of her. Thereafter, XXX inserted his penis into her vagina. AAA resisted and hit XXX with a piece of wood and a stone. Later, AAA disclosed that she had sex with XXX several times but he threatened to kill her if she told her mother.⁴

Thus, XXX was charged with Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC) and sexual abuse under Section 5(b) of Republic Act (RA) No. 7610 before the Regional Trial Court (RTC) docketed as Criminal Case Nos. CBU-101439 and CBU-101440, respectively, viz.:

[*Criminal Case No. CBU-101439*]

That on or about the month of November 2008, at around 6:00 o'clock in the morning, more or less, in [CCC], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and **by means of force and intimidation and taking advantage of the mental disability, and of which accused has knowledge of the mental disability of the offended party** at the time of the commission of the offense, did then and there willfully, unlawfully and **feloniously have sexual intercourse** with AAA, a 29[-]year old girl, a mentally retarded [*sic*] and **with a mental age comparable to a 6-year old child**, without her consent and against her will, resulting in the latter's pregnancy and giving birth to a child, and which act of the accused debases, degrades or demeans the intrinsic worth and dignity of a child as a human which is prejudicial to her welfare, interest and development as a human being.

CONTRARY TO LAW.⁵ (Emphasis supplied.)

[*Criminal Case No. CBU-101440*]

That on the 13th of April 2013 at about 3:00 o'clock in the afternoon, more or less, at [CCC,] Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent did then and there willfully, unlawfully, and feloniously with the use of force subject to sexual abuse AAA, a 29-year old girl, a mentally challenged [*sic*] and

³ Any information to establish or compromise the identity of the victim, as well as those of her immediate family or household members, shall be withheld, and fictitious initials are used, pursuant to Republic Act (RA) No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; RA No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; Section 40 of A.M. No. 04-10-11-SC, Rule on Violence Against Women and Their Children; and *People v. Cabalquinto*, 533 Phil. 703 (2006).

⁴ CA *rollo*, pp. 36-39.

⁵ *Id.* at 35.



with a mental age comparable to a 6-year old, by waylaying, grabbing, hugging, holding her both hands tightly and dragging her to the grassy area, which act of the accused constitutes psychological and physical abuse, which is prejudicial to the welfare and development of the child and debasing, degrading, and demeaning her intrinsic worth and dignity as a human being.

CONTRARY TO LAW.⁶

At the trial, BBB testified that AAA is already 29 years old but is a mental retardate and an illiterate.⁷ The psychologist confirmed that AAA has a mental age comparable to that of a six-year old child. Moreover, she had a very poor intelligence quotient and severe reduction in emotional expressiveness. There is a possibility that AAA cannot determine right from wrong.⁸

In his defense, XXX admitted having sexual intercourse with AAA in November 2008 but alleged that they were lovers. He knew that AAA bore his child since they had sex twice. He financially supported the child and planned to marry AAA but her father and siblings threatened to maul him.⁹ XXX's mother corroborated that her son and AAA had a romantic relationship.¹⁰ Yet, XXX denied any sexual encounter with AAA on April 13, 2013 and claimed that he never approached her after BBB confronted him in the barangay. Lastly, XXX argued that AAA was not a mental retardate because she spoke well and can perform basic household chores, such as laundry, gardening and baby-sitting.¹¹

On July 4, 2016, the RTC convicted XXX of Rape in Criminal Case No. CBU-101439. It considered XXX's admission and gave credence to testimonies about AAA's mental disability. However, it acquitted XXX of sexual abuse in Criminal Case No. CBU-101440,¹² thus:

WHEREFORE, the Court finds accused [XXX] guilty beyond reasonable doubt of the crime of Rape and hereby sentences him to suffer the penalty of *reclusion perpetua*, **without possibility for parole**, in accordance with Republic Act No. 9346. The accused is ordered to pay the offended party AAA civil indemnity of P75,000.00, moral damages of P50,000.00 and exemplary damages of P30,000.00, with interest of 6% per annum from the finality of this decision until satisfaction of the award.

The accused is hereby acquitted of the charge of violation of R.A. [No.] 7610 in Criminal Case No. CBU-101440.

SO ORDERED.¹³ (Emphasis supplied.)

⁶ *Id.* at 35-36.

⁷ *Id.* at 38-39.

⁸ *Id.* at 38.

⁹ *Id.* at 39.

¹⁰ *Id.* at 40-41.

¹¹ *Id.* at 39-40.

¹² *Id.* at 34-45; penned by Presiding Judge Ester M. Veloso.

¹³ *Id.* at 44-45.



XXX appealed to the CA docketed as CA-G.R. CR-HC No. 02447. He contended that AAA consented to their sexual intercourse. Also, XXX insisted that AAA is not a mental retardate.¹⁴ In contrast, the Office of the Solicitor General countered that the XXX's sweetheart theory is unsubstantiated. Likewise, the prosecution sufficiently established that AAA suffers from mental retardation, which the psychologist confirmed and the trial court observed in open court.¹⁵ On June 29, 2018, the CA affirmed the RTC's findings that XXX is guilty of Rape but modified the award of damages,¹⁶ to wit:

WHEREFORE, the appeal is DISMISSED. The Decision dated July 4, 2016 finding Accused-Appellant guilty beyond reasonable doubt of the crime of Rape is AFFIRMED with the following MODIFICATIONS:

1. Accused-Appellant [XXX] is ORDERED to PAY AAA the following amounts: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages; and
2. Accused-Appellant [XXX] is also ORDERED to PAY interest at the rate of 6% per annum from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages, and exemplary damages.

SO ORDERED.¹⁷

Hence, this recourse on the ground that the prosecution failed to establish XXX's guilt beyond reasonable doubt. He interposes the "sweetheart" theory and claims that their sexual intercourse was a free and voluntary act.¹⁸

RULING

The appeal has no merit.

The crime of statutory Rape is defined under Article 266-A, paragraph 1(d) of the RPC, as amended by RA No. 8353,¹⁹ and has the following elements: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim.²⁰ It is committed regardless of whether

¹⁴ *Id.* at 21-33. Appellant assigns the following errors of the trial court: I. The trial court erred in giving full faith and credence to the testimony of the prosecution witnesses; and II. The trial court erred in convicting the accused-appellant of the crime of rape despite the failure of the prosecution to prove and establish his guilt beyond reasonable doubt.

¹⁵ *Id.* at 63-81.

¹⁶ *Id.* at 4-11.

¹⁷ *Rollo*, pp. 10-11.

¹⁸ *Id.* at 20-21 and 24-25. In their Manifestations, the appellant and the appellee dispensed with the filing of their Supplemental Briefs, and adopted their respective Appellant's and Appellee's Briefs filed before the CA as their Supplemental Briefs.

¹⁹ An Act Expanding the Definition of the Crime of Rape, Reclassifying the Same as a Crime Against Persons, Amending for the Purpose Act No. 3815, As Amended, Otherwise Known as The Revised Penal Code, and For Other Purposes

²⁰ *People v. Ronquillo*, 818 Phil. 641, 648 (2017).

there was force, threat, or intimidation; fraud or grave abuse of authority; and whether the victim was deprived of reason or consciousness.²¹ It is enough that the age of the victim is proven and that there was sexual intercourse.²² In the recent case of *People v. Castillo*,²³ the Court *En Banc* settled that the crime is statutory Rape when the victim has a mental age of a person below 12 years old, thus:

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.

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 “socio-cultural 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.**²⁴ (Emphasis in the original.)

Here, all the elements of statutory Rape were proven beyond reasonable doubt. Foremost, it was established that AAA 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 on matters involving

²¹ *People v. Gutierrez*, 731 Phil. 353, 357 (2014).

²² *People v. Manson*, 801 Phil. 130, 137 (2016).

²³ G.R. No. 242276, February 18, 2020.

²⁴ *Id.*, citing *People v. Quintos*, 746 Phil. 809, 829-831 (2014).

sexuality.²⁵ A series of psychological tests revealed that AAA is a mental retardate. The examining psychologist testified in open court that AAA has a chronological age of 29 years old but has a mental age of a six-year old child, to wit:

Q Madam Witness, could you please tell us why did you conduct a psychological evaluation on the client [AAA]?

A She was referred to me for assessment of her current mental functioning.

COURT: (To the witness)

Q Why? What was her behavior that she was brought to you and required for evaluation?

A **She had flat affect.**

Q What do you mean by that?

A **A severe reduction in emotional expressiveness.**

[x x x x]

Q Based on the result of the test that you conducted on [AAA], will you please tell us the outcome of the examination that you conducted?

A **Client was given the TONI-3. Client's intelligence quotient was of very poor category, significantly indicative of mental slowness. Client's mental age is comparable to a 6 years [sic] old child.**

Q Is that findings [sic] stated in your psychological report?

A Yes.

[x x x x]

Q And at the time that you conducted the psychological evaluation, what was her actual age at that time?

A **She was 29 years old.**

Q **But according to you her mental age at that time was of 6 years old?**

A Yes.

[x x x x]

Q Now, the alleged incident in this case happened in x x x November 2008. Is it possible that in the year, November 2008, her mental age was even lower than six years old?

A **There is a possibility but it is within the bracket of five to six years old.**

²⁵ *People v. Martinez, et al.*, 827 Phil. 410, 426 (2018).

[x x x x]

COURT: (To the witness)

Q At that mental age of six years old, she could be easily lure [sic] or threaten [sic]?

A Yes, your Honor.

Q So, a mere threatening word could be enough to convince her to given in whatever is asked of her?

A Yes, your Honor.

Q Son [sic] in this particular case, was she lured, was she threatened or intimidated?

A There is a possibility that she had been lured or threatened.

Q So this could be easily done by anyone on her knowing her mental age?

A Anybody, your Honor.

Q So even if one does not know her well, could it be easily discern (sic) that her mental age is not compatible with her chronological age?

A Yes, your Honor.

Q Immediately upon talking to her, it is very clear that her mental age is not the same with her real age?

A By just looking at her, your Honor.

Q It is easily determined?

A Yes, your Honor.²⁶ (Emphases supplied.)

Also, the trial judge had the opportunity to actually examine the demeanor of AAA and concluded that she is a mental retardate. As the RTC aptly observed:

The offended party AAA, although 29 years old at the time of the alleged incidents, had the mental age of a six-year old, as attested to by a psychologist, who observed AAA and conducted tests on her. The psychologist further explained that because of her mental disability, AAA could not sense danger to her person and was easily lured or threatened. Her physical observation of AAA readily showed that the latter had such a disability. This belies the allegations of the accused and his witness that they never knew that AAA was mentally retarded, despite the fact that AAA was a relative and a neighbor. **Indeed, even the court could discern from the way AAA spoke and behaved when she testified, that she had the mind of a child. AAA's manner and behavior, even at first impression, indicated her disability and it was impossible for the accused not to**

²⁶ CA rollo, pp. 69-71.

have known that.²⁷ (Emphasis supplied.)

More importantly, the prosecution established that the accused had carnal knowledge of the victim. XXX admitted having sexual intercourse with AAA sometime in November 2008 but argued that they were lovers and that the act was free and voluntary on their part. As an affirmative defense, the “sweetheart” theory must be supported by convincing evidence, such as mementos, love letters, notes, and photographs.²⁸ However, XXX’s theory of consensual sex is barren of probative weight. He failed to substantiate his claim and offered only self-serving assertions. Further, the testimony of the accused’s close relative is necessarily suspect²⁹ and cannot prevail over AAA’s unequivocal declaration that XXX “*did not court [her]*” and “*was not even [her] boyfriend.*”³⁰ Even assuming that they have a relationship, XXX cannot force AAA to have sex against her will. A “love affair” neither justifies Rape nor serves as license for lust.³¹ In addition, the filing of criminal charges are not acts of a woman savoring a consensual coitus but that of a maiden seeking retribution for the outrage committed against her.³²

Notably, XXX was charged with Rape committed against a mental retardate qualified by the circumstance under Article 266-B paragraph 10 of the RPC that the offender knew of the victim’s mental disability at the time of the commission of the crime. The penalty for Qualified Rape is death penalty.³³ In this case, however, the prosecution failed to prove beyond reasonable doubt that XXX was aware of AAA’s mental disability at the time he committed the crime. In *People v. Niebres*,³⁴ the fact that the accused did not dispute the victim’s mental retardation during trial is insufficient to qualify the crime of Rape. This does not necessarily create moral certainty that the accused knew of the victim’s disability.³⁵ Here, XXX consistently denied that AAA is not a mental retardate because she spoke well and can perform basic household chores. The prosecution did not controvert XXX’s denial and allegation that AAA functioned like a normal person. Thus, we cannot conclude that XXX had knowledge of AAA’s mental disability and took advantage of it at the time he committed the Rape. It is settled that qualifying

²⁷ *Id.* at 41-42.

²⁸ *People v. Corpuz*, 597 Phil. 459, 466 (2009).

²⁹ *People v. Opeliña*, 458 Phil. 1001, 1014 (2003).

³⁰ CA rollo, p. 72.

³¹ *People v. Cabanilla*, 649 Phil. 590, 609 (2010); *People v. Loyola*, 404 Phil. 71, 77 (2001); *People v. Garces, Jr.*, 379 Phil. 919, 921 (2000); See *People v. Vallena*, 314 Phil. 679 (1995); *People v. Manahan*, 374 Phil. 77, 84 (1999), citing *People v. Tismo*, 281 Phil. 593, 614 (1991); *People v. Espiritu*, 375 Phil. 1012, 1020 (1999), citing *People v. Tayaban*, 357 Phil. 494, 510 (1998), in turn citing *People v. Domingo*, 297 Phil. 167, 186 (1993).

³² *People v. Tacipit*, 312 Phil. 295, 303 (1995).

³³ Act No. 3815, as amended by RA No. 8353, Article 266-B. *Penalties*. – 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 aggravating/qualifying 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.

³⁴ 822 Phil. 68 (2017).

³⁵ *Id.* at 77.

circumstances must be sufficiently alleged in the information and proved during trial.³⁶ Otherwise, there can be no conviction of the crime in its qualified form.³⁷

All told, XXX is guilty of statutory Rape. Applying Article 266-B of the RPC, the CA and the RTC correctly imposed the penalty of *reclusion perpetua*. However, the phrase “*without possibility for parole*” in the dispositive portion of the RTC’s Decision must be clarified. In A.M No. 15-08-02-SC,³⁸ this Court set the guidelines for the use of the phrase “*without eligibility for parole*” to remove any confusion, to wit:

1. In cases where the death penalty is not warranted, there is no need to use the phrase “*without eligibility for parole*” to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and
2. When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of [Republic Act] (R.A.) [No.] 9346, the qualification of “*without eligibility for parole*” shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346. (Italics in the original.)

Hence, there is a need to qualify that the accused is not “*eligible for parole*” only in cases where the imposable penalty should have been death were it not for the enactment of RA No. 9346 or the Anti-Death Penalty Law.³⁹ XXX is guilty of statutory Rape penalized with *reclusion perpetua* and there is no need to indicate that he was ineligible for parole. XXX is *ipso facto* ineligible for parole because he was sentenced to suffer an indivisible penalty.

As to the award of damages, the CA properly modified the amounts to conform with recent jurisprudence. In *People v. Jugueta*,⁴⁰ we held that when the circumstances call for the imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, the victim is entitled to ₱75,000.00 civil indemnity, ₱75,000.00 moral damages, and ₱75,000.00 exemplary damages. Lastly, in line with current policy, the CA also correctly imposed interest at the legal rate of six percent (6%) *per annum* on all monetary awards for damages, from date of finality of this decision until fully paid.⁴¹

FOR THESE REASONS, the appeal is **DENIED**. The accused-appellant XXX is **GUILTY** of statutory Rape and is sentenced to suffer the penalty of *reclusion perpetua*. Appellant is ordered to pay AAA the following amounts: civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and

³⁶ *People v. Diunsay-Jalandoni*, 544 Phil. 163, 176 (2007).

³⁷ *People v. Ramos*, 442 Phil. 710, 732 (2002).

³⁸ Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties.

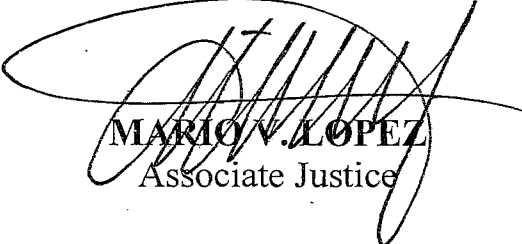
³⁹ Approved on June 24, 2006.

⁴⁰ 783 Phil. 806, 839 (2016).


⁴¹ *People v. Ronquillo*, 818 Phil. 641, 654 (2017), citing *People v. Dion*, 668 Phil. 333 (2011).

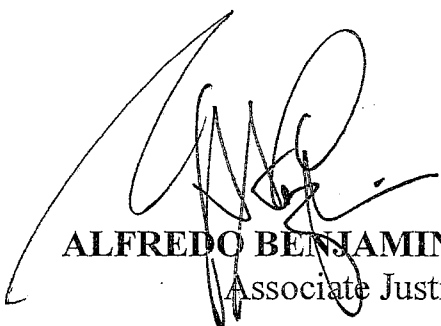
exemplary damages of ₱75,000.00. All monetary awards for damages shall earn interest at the legal rate of six percent (6%) *per annum* from date of finality of this Decision until fully paid.

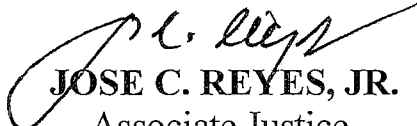
SO ORDERED.



MARIO V. LOPEZ
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson

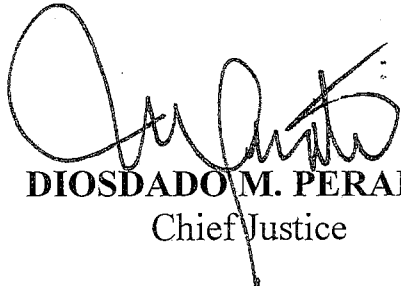

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

CERTIFICATION

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


DIOSDADO M. PERALTA
Chief Justice