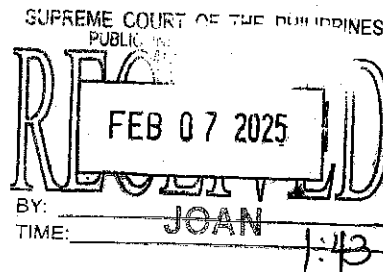




Republic of the Philippines
Supreme Court
Manila



EN BANC

PEOPLE OF THE
PHILIPPINES,
Plaintiff-appellee,

G.R. No. 267163

Members:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,**
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

-versus-

EDUARDO DELA CRUZ y
TOLENTINO,
Accused-appellant.

Promulgated:

October 29, 2024

* On official business but left his concurring vote.
** On official leave.

DECISION

LAZARO-JAVIER, J.:

This Appeal¹ assails the Decision² dated October 28, 2022 of the Court of Appeals in CA-G.R. CR HC No. 14824, affirming with modification the conviction of accused-appellant Eduardo Dela Cruz y Tolentino (Dela Cruz) for rape in Criminal Case No. 3492-2015.

Dela Cruz was charged under the following Information, viz.:

That on or about February 25, 2015 at around 6:30 o'clock in the evening [in] the Municipality of [REDACTED], Province of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, accused, did then and there willfully, unlawfully[,] and feloniously by means of force and intimidation had carnal knowledge [of AAA267163], a [s]pecial [c]hild, minor, 16 years old, against her will and which ac[t] is greatly prejudicial to her normal growth and development as a minor.

CONTRARY TO LAW.³

The case was raffled to the Branch [REDACTED], Regional Trial Court, [REDACTED].⁴ Upon arraignment, Dela Cruz pleaded not guilty to the charge.⁵

During trial, AAA267163⁶ and Dela Cruz testified for the prosecution⁷ and the defense, respectively.⁸

Version of the Prosecution

AAA267163 testified that she was born on September 10, 1998⁹ and was more or less 16 years old when Dela Cruz had carnal knowledge of her on February 25, 2015. Around 6:00 p.m. of that day, Dela Cruz called her to go inside a Born Again church located in Barangay [REDACTED], [REDACTED], [REDACTED]. There, he touched her breast and vagina, and then inserted his finger into her private organ. He next removed her shorts and underwear while telling her to keep

¹ *Rollo*, pp. 3–5.

² *Id.* at 9–20. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Alfonso C. Ruiz II of the Fifth Division, Court of Appeals, Manila.

³ *Id.* at 22.

⁴ *Id.* at 9.

⁵ *Id.* at 10.

⁶ In line with Amended Administrative Circular No. 83-2015, as mandated by Article 266-A of the Revised Penal Code, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

⁷ *CA rollo*, pp. 13–14.

⁸ *Id.* at 14.

⁹ *Id.* at 16.

quiet. He laid her on a chair where he kissed her vagina and inserted his penis therein.¹⁰

In her *Sinumpaang Salaysay*¹¹ dated February 26, 2015, AAA267163 narrated in detail what Dela Cruz did to her: "*higa niya ako, kiss niya pisngi ko, kiss nya dede ko, kiss niya pepe ko, pasok nya titi niya sa pepe ko.*"¹²

The Medical Certificate¹³ dated February 26, 2015 issued by Dr. Myra Paril-Gana (Dr. Paril-Gana) bore her findings that AAA267163's hymen was intact, and there were no bleeding, abrasions, and erythema at the time of examination.¹⁴ The existence of the medical certificate was admitted by the defense.¹⁵

During the trial, the court noted that based alone on the physical appearance of AAA267163, it was easily discernible that her actual age is different from her mental age, hence, she should be treated as a child witness. The defense did not object.¹⁶

Version of the Defense

Dela Cruz denied the charge.¹⁷ He testified that he was cutting coconut husks when he saw AAA267163 roaming around until she entered the barangay hall. She looked mentally challenged because her body was shaking while roaming around. She pulled down her shorts. He went near her to pull her shorts up. Her mother arrived shortly and accused him of raping AAA267163. Her mother also called the police and had him detained at the Pura Police Station.¹⁸

On cross-examination, Dela Cruz admitted that he knew AAA267163 who used to call him "*Uncle Edward*," and he was also aware that she was mentally challenged.¹⁹

¹⁰ *Rollo*, p. 10.

¹¹ RTC records, p. 5.

¹² *CA rollo*, p. 17.

¹³ RTC records, p. 8.

¹⁴ *Id.*

¹⁵ *CA rollo*, p. 13.

¹⁶ *Id.* at 65.

¹⁷ *Rollo*, p. 17.

¹⁸ *CA rollo*, p. 108.

¹⁹ *Id.*

Ruling of the Trial Court

By Decision²⁰ dated March 3, 2020, the trial court rendered a verdict of conviction for statutory rape under Article 266-A paragraph 1(d) of the Revised Penal Code, thus:

WHEREFORE, in view of the foregoing, this Court finds the accused EDUARDO DELA CRUZ [y] Tolentino "GUILTY" beyond reasonable doubt of the crime of Rape under Article 266-A paragraph 1(d). Accordingly, he is hereby sentenced to suffer the penalty of *reclusion perpetua*.

Likewise, accused is ordered to pay the victim the amounts of [PHP] 30,000.00 as civil indemnity, [PHP] 30,000.00 as moral damages and [PHP] 30,000.00 as exemplary damages.

SO ORDERED.²¹ (Emphasis in the original)

The trial court ruled that all the elements of statutory rape were present in this case.²² While the medical certificate indicated that AAA267163's hymen remained intact, it did not negate the commission of the crime.²³ In any case, the denial of Dela Cruz is an inherently weak defense that cannot prevail over the positive, candid, and categorical testimony of AAA267163. More so, since the offended party is a young and immature girl.²⁴

Dela Cruz's motion for reconsideration was denied per Order²⁵ dated August 4, 2020.

Ruling of the Court of Appeals

Under its Decision²⁶ dated October 28, 2022, the Court of Appeals affirmed in the main, but modified the awards of civil indemnity, moral damages, and exemplary damages to PHP 75,000.00 each, and imposed 6% interest per annum on all damages awarded from finality of the decision until full payment.²⁷

²⁰ *Rollo*, pp. 22–30. Penned by Presiding Judge Lily C. De Vera-Vallo of Branch [REDACTED], Regional Trial Court, [REDACTED].

²¹ *Id.* at 30.

²² *Id.* at 26.

²³ *Id.* at 27.

²⁴ *Id.* at 28.

²⁵ RTC records, p. 134.

²⁶ *Rollo*, pp. 9–20.

²⁷ *Id.* at 19–20.

The Present Appeal

Dela Cruz now seeks affirmative relief from the Court and prays anew for his acquittal. In lieu of supplemental briefs, both Dela Cruz²⁸ and the Office of the Solicitor General²⁹ manifested that they are adopting their respective briefs filed before the Court of Appeals.

Ruling

We modify.

Rape under Article 266-A(1) of the Revised Penal Code

Article 266-A(1) of the Revised Penal Code defines and penalizes rape, as follows:

Article 266-A. Rape: *When and How Committed*. - Rape is committed:

- 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat, or intimidation;
 - b) When the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

Rape by sexual intercourse requires the following elements: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.³⁰

Here, AAA267163 unequivocally averred that Dela Cruz had carnal knowledge of her. She testified that she was inside a Born Again church when Dela Cruz touched her breast and vagina, and inserted his finger into her vagina. He then removed her shorts and underwear, laid her on a chair, kissed her vagina, and eventually inserted his penis into her vagina ("*higa niya ako, kiss niya pisngi ko, kiss nya dede ko, kiss niya pepe ko, pasok nya titi niya sa pepe ko.*").³¹

²⁸ *Id.* at 35–37.

²⁹ *Id.* at 31–33.

³⁰ See *People v. Ejercito*, 834 Phil. 837, 853 (2018) [Per J. Perlas-Bernabe, Second Division].

³¹ CA rollo p. 17.

Both the trial court and the Court of Appeals found the sole testimony of AAA267163 to be credible, natural, convincing, and consistent. Though the medical certificate indicated that her hymen remained intact, and there were no indicated bleeding, abrasions, or erythema at the time of examination, the Court has consistently ruled that a medical certificate is merely corroborative in character and its absence does not disprove the occurrence of rape. It is enough that the evidence on hand convinces the court that conviction is proper, as in the present case.³²

In any event, where the clashing values of the victim's positive testimony and accused-appellant's plain denial are in issue, the factual findings of the trial court thereon carry great weight and respect especially when sustained by the Court of Appeals as in this case. This is because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the manner by which witnesses testified, acted, and behaved in court.³³ Against the bare denial of Dela Cruz, therefore, the positive testimony of the victim deserves greater weight and credit.

*Dela Cruz is guilty of rape
under Article 266-A paragraph
1(a) of the Revised Penal Code*

We now reckon with the allegation in the Information that AAA267163 is a "special child." The trial court concluded that AAA267163 was a child based on her appearance and demeanor during the trial. It particularly noted that on the witness stand, she murmured "*hindi na ba ako babalik, uuwi na ba ako?*" According to the trial court, such action is "attributed to a child of tender age." Further, the trial court took into consideration that the defense did not object to the treatment of AAA267163 as a child witness.³⁴ Consequently, both the trial court and the Court of Appeals were convinced that Dela Cruz should be held liable for statutory rape under Article 266-A paragraph 1(d) of the Revised Penal Code.

We note that while the trial court did observe that based on the appearance and demeanor of AAA267163 during the trial, she was a child, it failed to identify or at least calculate her mental age. Also, the records did not bear any clinical identification of her mental age either. Verily, therefore, there is nothing to support the conclusion that the 16-year-old AAA267163 had a mental age of a child below 12 years old at the time she was raped to sustain a conviction for statutory rape.

³² *People v. Anemos*, G.R. No. 246524, May 14, 2021 [Notice, First Division].

³³ *People v. Agalot*, 826 Phil. 541, 550 (2018) [Per J. Martires, Third Division].

³⁴ CA rollo, p. 65.

In *People v. XXX*,³⁵ the mental disability of the victim was not disputed. However, the victim's level of disability has not been equated to a specific "mental age." The medical certificate merely stated that the victim is suffering from "moderate retardation." In ruling that there was no statutory rape, the Court ordained that the mental age of the victim must first be identified, viz.:

Evidence must be adduced to aid the court in determining not only the existence of the illness and its level of 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. 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, 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* as past cases show us that mental aging is variable. 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 and not on mere inferences.

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.

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, 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. Comparatively, the same also holds true even more with the determination of the mental age

³⁵ G.R. No. 220145. August 30, 2023 [Per J. Gaerlan, Third Division].

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.³⁶ (Citations omitted)

But this identification need not be based alone on the existence of a clinical or medical finding on record. In fact, the Court emphasized in *People v. Bermas*³⁷ that the lack of medical or clinical evidence does not preclude the presentation of other evidence to prove the victim's mental disability. Medical finding is necessary only for borderline cases when there is difficulty in ascertaining the mental capacity of the victim.³⁸ In cases where the cognitive disability is readily apparent, the trial court can resort to other pieces of evidence. Consequently, *People v. Dumanon*³⁹ pronounced that the trial court itself can determine whether a person is suffering from mental disability. *People v. Dalandas*⁴⁰ also recognized that the mental disability of persons and the degrees thereof may be manifested by their overt acts, appearance, attitude, and behavior.

To repeat, the trial court here made its own observation that AAA267163 was a child based on her appearance and demeanor, but failed to identify her mental age to support a conviction for statutory rape. This is significant considering that under the law then prevailing, statutory rape involved child victims who are below 12 years of age. Hence, in cases of statutory rape involving victims with cognitive deficiency, their mental age corresponding to that of a child below 12 years of age should be established.

As shown here, the mental age of AAA267163 was not proved, thus, Dela Cruz should be adjudged guilty not of statutory rape but of rape under Article 266-A paragraph 1(a) of the Revised Penal Code. To recall, Dela Cruz succeeded in having carnal knowledge of AAA267163 by using force or intimidation in the form of moral ascendancy.⁴¹ AAA267163 called him "Uncle Edward." Too, the big discrepancy between their ages, i.e. 40 years old vis-à-vis 16 years old, is indicative of coercion. Further, as a full-grown adult, Dela Cruz took advantage of AAA267163, who was not only a minor but was even afflicted with cognitive disability. He even testified that he knew of her mental state "[b]ecause she is roaming around and she is doing like this (the witness is shaking his body)."⁴² He further observed that "[i]t's like [AAA267163] doesn't have [a] mind. She is mentally disordered[.]"⁴³

³⁶ *Id.* at 11–13. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁷ 854 Phil. 556 (2019) [Per J. Caguioa, Second Division].

³⁸ *Id.* at 569.

³⁹ 401 Phil. 658, 669–670 (2000) [Per C.J. Davide, Jr., First Division].

⁴⁰ 442 Phil. 688, 696 (2002) [Per J. Callejo, Sr., *En Banc*].

⁴¹ *Dela Cruz v. People*, 903 Phil. 801, 817 (2021) [Per J. Lopez, Third Division].

⁴² TSN dated October 7, 2019, p. 3.

⁴³ *Id.* at 6.

Penalty, civil indemnity, and damages

Dela Cruz should suffer the penalty of *reclusion perpetua* in accordance with Article 266-B, in relation to Article 266-A of the Revised Penal Code, viz.:

Article 266-A. Rape: When and How Committed. - Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation[.]

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

As for civil indemnity and damages, we emphasized in *People v. Jugueta*⁴⁴ that since civil indemnity is not a penalty or a fine, *it can be increased by the Court, when appropriate*. Also, criminal liability is a “State concern” while civil liability is awarded to the private offended party for the violation of their rights, viz.:

First, civil indemnity *ex delicto* is the indemnity authorized in our criminal law for the offended party, in the amount authorized by the prevailing judicial policy and apart from other proven actual damages, which itself is equivalent to actual or compensatory damages in civil law. This award stems from Article 100 of the [Revised Penal Code] which states, “Every person criminally liable for a felony is also civilly liable.”

It is to be noted that civil indemnity is, technically, not a penalty or a fine; hence, it can be increased by the Court when appropriate. . . .

In our jurisdiction, civil indemnity is awarded to the offended party as a kind of monetary restitution or compensation to the victim for the damage or infraction that was done to the latter by the accused, which in a sense only covers the civil aspect. Precisely, it is civil indemnity. Thus, in a crime where a person dies, in addition to the penalty of imprisonment imposed to the offender, the accused is also ordered to pay the victim a sum of money as restitution. Also, it is apparent from Article 2206 that the law only imposes a minimum amount for awards of civil indemnity, which is [PHP] 3,000.00. The law did not provide for a ceiling. Thus, although the minimum amount for the award cannot be changed, increasing the amount awarded as civil indemnity can be validly modified and increased when the present circumstance warrants it.

....

The term aggravating circumstances used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes

⁴⁴ 783 Phil. 806, 826 (2016) [Per J. Peralta, *En Banc*].

personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code.⁴⁵

Indeed, upholding the rights of the accused does not mean that the State will turn a blind eye to the vile manner of the commission of the crime and compromise the vindication of the rights of the victim. Thus, the *Court deems it proper to increase the award of civil indemnity and damages from PHP 75,000.00 to PHP 100,000.00 each in the present case.* For although the Information did not allege that Dela Cruz knew of the cognitive deficiency of AAA267163 when he committed the crime, it was proved that he (40 years old) knew of the cognitive disability of AAA267163 (16 years old), took advantage of it, and abused his moral ascendancy over her, thus, making the crime of rape more reprehensible. This speaks of a graver moral depravity of the accused where a higher punishment in the form of civil indemnity and damages must, at the very least, be meted out.

ACCORDINGLY, the Appeal is **DENIED**. The Decision dated October 28, 2022 of the Court of Appeals in CA-G.R. CR HC No. 14824 is **AFFIRMED** with **MODIFICATION**.

Accused-appellant Eduardo Dela Cruz y Tolentino is found **GUILTY** of rape under Article 266-A paragraph 1(a) of the Revised Penal Code. He is sentenced to *reclusion perpetua* and **ORDERED** to **PAY** AAA267163 the following:

- (a) **PHP 100,000.00** as civil indemnity;
- (b) **PHP 100,000.00** as moral damages; and
- (c) **PHP 100,000.00** as exemplary damages.

These amounts shall earn 6% interest per annum from finality of this Decision until fully paid.

⁴⁵ *Id.* at 826-831.

18

Finally, the Department of Social Welfare and Development is **DIRECTED** to refer AAA267163 to the appropriate rape crisis center for necessary assistance to be extended to her and her family pursuant to Republic Act No. 8505 or the Rape Victim Assistance and Protection Act of 1998.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

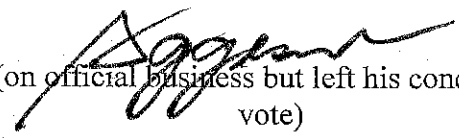
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

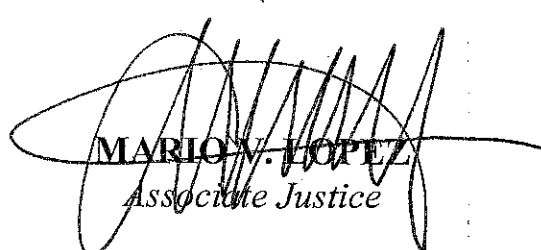
*See Separate
Concurring
Opinion*


(on official business but left his concurring
vote)

RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

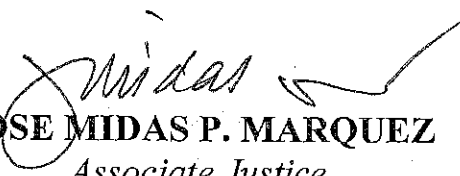

MARION V. LOPEZ
Associate Justice

(on official leave)
SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

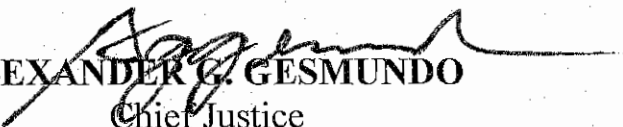

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice