



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 July 2020** which reads as follows:*

“G.R. No. 240546 (People of the Philippines, plaintiff-appellee, v. Marlon B. Yu, accused-appellant). – After a judicious review of the records, this Court resolves to **DISMISS** the appeal from the June 16, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05596 for failure of Marlon B. Yu (accused-appellant) to prove that the CA committed reversible error in affirming the Decision² dated March 25, 2011 of Branch 38, Regional Trial Court (RTC), Manila finding him guilty of Rape.³

In compliance with the Court’s Resolution⁴ dated September 3, 2018, the Office of the Solicitor General (OSG) manifested⁵ that in lieu of a supplemental brief, it is adopting its Appellee’s Brief before the CA. Meanwhile, in his Supplemental Brief,⁶ accused-appellant maintains that AAA* was lying and that she was merely dictated upon by her evil mentors who want to extort money from him. He asserts further that the transfer of the venue of the case from Tacloban City to Manila was resorted to by the prosecution to obtain favorable treatment from another judge.⁷

¹ *Rollo*, pp. 2-21; penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Manuel M. Barrios and Victoria Isabel A. Paredes, concurring.

² *CA rollo*, pp. 39-59; penned by Presiding Judge Ma. Celestina C. Mangrobang.

³ Records, p. 1.

⁴ *Rollo*, pp. 28-29.

⁵ *Id.* at 30-32.

⁶ *Id.* at 35-42.

^{*} In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims.

⁷ *Rollo*, p. 39.

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The elements necessary to sustain a conviction for rape are: (1) the accused had carnal knowledge of the victim; and (2) said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.⁸ In this case, accused-appellant never denied having carnal knowledge of the victim. Thus, the only matter to be resolved by this Court is whether accused-appellant had carnal knowledge of the victim against her will using threats, force or intimidation; or that she was deprived of reason or otherwise unconscious, or was under 12 years of age or is demented.

AAA's mental retardation can be proven by presentation of medical/clinical evidence,⁹ testimony of witnesses in court, or through observation by the trial court of her demeanor or deportment. It may be manifested through an overt act, appearance, attitude, and behavior or inability to achieve intelligible or coherent speech, indicative of her impaired mental condition.¹⁰ In the present case, the Court is in accord with the findings of the RTC and CA that AAA was a mental retardate based on the psychological examination conducted by the doctors, as well as her inability to immediately grasp the questions propounded on her.

Notably, accused-appellant does not deny having sexual congress with AAA several times. Yet, he claims that the act was consensual as he has been in an extramarital relationship with her for quite sometime already.

The Court is not persuaded.

In our jurisdiction, carnal knowledge of a woman suffering from mental retardation is rape since she is incapable of giving consent to a sexual act. Under these circumstances, all that needs to be proved for a successful prosecution are the facts of sexual congress between the rapist and the victim, and the latter's mental retardation.¹¹ The CA stated:

In the present case, *AAA positively identified accused-appellant as*

⁸ *People v. Urmaza*, G.R. No. 219957, April 4, 2018, 860 SCRA 535, 546, citing *People v. Patentes*, 726 Phil. 590, 598 (2014).

⁹ See Psychological Examination/Evaluation approved by Maximo L. Reyes, M.D. and NBI Medical Report signed by Medico-Legal Officer Annabelle L. Soliman, M.D., Records, pp. 216-217 and 489, respectively.

¹⁰ *People v. Ocomen*, G.R. No. 225499, Resolution dated September 13, 2017, citing *People v. Dalandas*, 442 Phil. 688 (2002).

¹¹ *People v. Urmaza*, *supra* note 8, citing *People v. Brion*, 717 Phil. 100, 109 (2013).

the one who had sexual intercourse with her against her will on October 1, 2001. At the time of rape, AAA was 15 years old having been born on October 26, 1985, as evidenced by her Birth Certificate. AAA also testified that accused-appellant poked a gun at her head, pushed her to the bed, slapped her and threatened to kill her if she would tell anyone about the incident.

The prosecution was able to establish through clinical and testimonial evidence that AAA is a mental retardate. An NBI Neuro-Psychiatric Report dated September 13, 2002 on the psychological examination and evaluation conducted on AAA and an NBI Neuro-Psychiatric Services Letter-Report dated August 16, 2004 were presented and offered by the prosecution stating that *AAA was suffering from moderate mental retardation with a mental age of seven (7) years and six (6) months old and an IQ of 49.* Further, the testimony of Dr. Papa confirmed AAA's mental retardation.

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It is noteworthy to mention that by virtue of the trial court's Order dated August 2, 2004, Dr. Papa conducted another examination on AAA as contained in the NBI Neuro-Psychiatric Service Letter-Report dated August 16, 2004. *The Report showed the result that AAA was suffering from "[m]ental [r]etardation with a [m]ental age of [s]even (7) years and [s]ix (6) months and an IQ of 49."* Dr. Papa affirmed his findings when he testified in court.

Moreover, based on another neuro-psychiatric examination conducted on AAA after the then trial court Judge Priscilla Baltazar-Padilla conducted a competency test during the hearing on January 28, 2005, the trial court also issued an Order dated February 1, 2005 stating that it was convinced that AAA was indeed suffering from mental retardation with a mental age of seven (7) Years and six (6) months. *The personal observation of the trial judge suffices even in the absence of an expert opinion and is entitled to great weight and respect being in the best position as it had the opportunity to hear and observe the demeanor, conduct and attitude of AAA while testifying.*¹² (Emphasis supplied)

It must be stressed that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by the Court where, as in here, it was shown that they could communicate their ordeal capably and consistently. Truth be told, rather than undermine the gravity of the complainant's accusations, it lends even greater credence to her testimony, as someone feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact

¹² Rollo, pp. 14-15.

suffered such crime at the hands of the accused.¹³

Moreover, this Court gives the highest respect to the trial court's factual findings, its assessment of the witnesses' credibility, the probative weight given to them, as well as the conclusions based on these factual findings. As a rule, when affirmed by the CA, this Court will not reexamine them as these matters are best left to trial courts, which had the opportunity to observe the conduct of the witnesses.¹⁴

Accused-appellant must also be reminded that the sweetheart theory or sweetheart defense is an oft-abused justification that rashly derides the intelligence of the Court and solely tests its patience. To even consider giving credence to such defense, it must be proven by compelling evidence. Mere testimonial evidence will not suffice. Independent proof is required, such as tokens, momentos, and photographs. None of such were presented here by the defense.¹⁵

Neither is the Court inclined to consider the allegation of extortion as the same is self-serving and without basis. Accused-appellant has raised too many extraneous issues which only serve to convince this Court all the more of his guilt.

At this point, the Court sustains the penalty of *reclusion perpetua* imposed by both the RTC and the CA. Article 266-B, in relation to Article 266-A(1) of the Revised Penal Code, as amended, provides that simple rape is punishable by *reclusion perpetua*. The penalty is increased to death only when the qualifying circumstance of knowledge by the accused of the mental disability of the victim, among others is sufficiently alleged in the indictment and proved during trial. Accordingly, such qualifying circumstance must be proved with equal certainty and clearness as the crime itself; otherwise, there can be no conviction of the crime in its qualified form. In this case, while the qualifying circumstance of knowledge by accused-appellant of AAA's retardation was specifically alleged in the information, there was no sufficient and competent evidence to substantiate the same.¹⁶

Finally, the modified damages awarded by the CA are in accord

¹³ *People v. Urmaza*, *supra* note 8, citing *People v. Dela Paz*, 569 Phil. 689, 704 (2008).

¹⁴ *People v. Opanda*, G.R. No. 226157, Resolution dated June 19, 2019, citing *People v. Castel*, 593 Phil. 288 (2008).

¹⁵ *People v. Urmaza*, *supra* note 8, citing *People v. Eco*, 742 Phil. 298, 306 (2014).

¹⁶ *People v. Niebres*, G.R. No. 230975, December 4, 2017, 847 SCRA 458, 468.

with *People v. Jugueta*.¹⁷

WHEREFORE, the appeal is **DISMISSED**. The June 16, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05596 is **AFFIRMED** *in toto*. Accused-appellant Marlon B. Yu is **GUILTY BEYOND REASONABLE DOUBT** of the crime of rape and is sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay AAA the following (1) ₱75,000.00 as civil indemnity; (2) ₱75,000.00 as moral damages; and (3) ₱75,000.00 as exemplary damages. An interest at the rate of 6% *per annum* is imposed on all damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED.” (GAERLAN, J., designated as additional member, per Special Order No. 2780 dated May 11, 2020).

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *with 8/28*

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 38
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(Crim. Case No. 03-221331)

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¹⁷ 783 Phil. 806 (2016).