



Republic of the Philippines
Supreme Court
Manila

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SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 242276

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
REYES, A. JR.,
GESMUNDO,
REYES, J. JR.,
HERNANDO
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS, and
GAERLAN, JJ.

- versus -

RUBEN* CASTILLO y DE VERA
and MARILYN CASTILLO y
BRUMELA,

Accused,

RUBEN CASTILLO y DE VERA,
Accused-Appellant.

Promulgated:

February 18, 2020

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DECISION

REYES, J. JR., J.:

This is an appeal from the May 15, 2018 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 08643 which affirmed with modification the July 22, 2016 Decision² of the Regional Trial Court, Branch 94, Quezon City (RTC) in Criminal Case No. R-QZN-14-02382-CR

* Also spelled as "Robin" in some parts of the *rollo*.

¹ Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Ramon R. Garcia and Myra V. Garcia-Fernandez, concurring; *rollo*, pp. 2-9.

² Penned by Presiding Judge Roslyn M. Rabara-Tria; CA *rollo*; pp. 36-47.

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finding Ruben Castillo y De Vera³ (accused-appellant) guilty of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code (RPC), as amended.

The Facts

In the Information dated September 16, 2013, accused-appellant and his wife, Marilyn Castillo y Brumela (Marilyn) were charged with rape under Article 266-A, paragraph 1(a) of the RPC, as amended. The Information reads:

That on or about the month of July 2012 in Quezon City, Philippines, the said accused, ROBIN [CASTILLO Y DE VERA], conspiring, confederating with his wife MARILYN CASTILLO] and mutually helping each other, did, then and there, willfully, unlawfully and feloniously have carnal knowledge of the complainant victim AAA, a minor, 14 years of age and a mentally retarded, with accused ROBIN inserting his penis into complainant victim's vagina, against her will and without her consent.

Accused MARILYN CASTILLO facilitated the commission of the crime by bringing the victim into their house and being present during the commission of the crime to ensure its consummation.

CONTRARY TO LAW.⁴

Upon their arraignment on May 12, 2014, accused-appellant and Marilyn pleaded not guilty to the charge. Thereafter, trial on the merits ensued.

Version of the Prosecution

Accused-appellant and Marilyn are the godparents of AAA. Marilyn would usually fetch AAA on Fridays or Saturdays so that AAA could sleep in Marilyn's house. On December 24, 2012, BBB, AAA's mother, noticed that AAA's stomach was getting bigger. She then asked AAA, "*Sino ang may gawa nito?*" AAA answered that it was accused-appellant. AAA and BBB reported the incident to the police. AAA described what accused-appellant did to her as "*sinasalbahe,*" "*hinuhubaran niya ako, pinasok niya titi niya sa akin,*" and "*pinasok titi niya sa pipi ko.*" She further narrated that Marilyn witnessed what accused-appellant did to her. On April 24, 2013, AAA gave birth to a baby boy.

³ The name of the accused is blotted out to protect the identity of the rape victim pursuant to Administrative Circular No. 83-2015 issued on September 5, 2017.

⁴ CA *rollo*, pp. 36-37.

Dr. Stella H. Guerrero-Manalo (Dr. Manalo) of the University of the Philippines-Philippine General Hospital (UP-PGH) Child Protection Unit examined AAA on November 7, 2014 to determine the mental age of the latter. Dr. Manalo found that AAA has verbal skills of a 2 ½ to 3-year-old child while her nonverbal skills showed that she is approximately around 5-6 years of age. Dr. Manalo explained that AAA requires supervision and assistance because she is unable to judge situations and she can be easily exploited and fooled. Dr. Manalo concluded that based on her mental age, AAA cannot give consent to any sexual act.

Version of the Defense

Accused-appellant and Marilyn averred that BBB was angry with them. BBB and her husband were engaged in gambling and they would often fetch accused-appellant to join them. Accused-appellant even mortgaged their personal belongings to sustain his gambling activities. As a result thereof, Marilyn filed a complaint before the barangay against BBB and her husband.

The RTC Ruling

In a Decision dated July 22, 2016, the RTC found accused-appellant guilty of simple rape. It reasoned that AAA rendered a complete and credible narration of her ordeal at the hands of accused-appellant and there was no reason to doubt her credibility especially in the absence of proof of ill motive on her part to charge accused-appellant with a grave offense. The trial court opined that the prosecution was able to prove that AAA is a mental retardate. It, however, acquitted Marilyn because aside from the bare allegation that she was present during the commission of the crime, it has not been shown that she performed an overt act in pursuance of the conspiracy. The RTC added that the mere fact that Marilyn would fetch AAA and bring the latter to their house could not be construed as an intentional participation in the crime of rape. The *fallo* reads:

WHEREFORE, premises considered, accused Ruben Castillo y De Vera is hereby found guilty beyond reasonable doubt of the crime of simple rape under Article 266-A paragraph [1(a)] of the Revised Penal Code as amended by Republic Act No. 8353 and is sentenced to suffer the penalty of *reclusion perpetua* and to pay the costs.

Accused Ruben Castillo y De Vera is further ordered to pay private complainant AAA the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P75,000.00 as exemplary damages. Furthermore, all damages awarded shall earn interest at the rate of 6% per annum from date of finality of judgment until full payment.

Accused Marilyn Castillo y Brumela is acquitted of the offense charged on ground of reasonable doubt.

Accused Marilyn Castillo y Brumela is acquitted of the offense charged on ground of reasonable doubt.

The Warden of the Quezon City Jail Female Dormitory is hereby ordered to release accused Marilyn Castillo y Brumuela from custody unless she is being detained for some other lawful cause.

SO ORDERED.⁵

Aggrieved, accused-appellant elevated an appeal before the CA.

The CA Ruling

In a Decision dated May 15, 2018, the CA affirmed the conviction of accused-appellant. It held that AAA's mental deficiency could not taint or diminish the reliability of her testimony considering that when AAA took the witness stand, she was able to make known her perception, communicate her experience and identify accused-appellant as her assailant. The appellate court, however, ruled that accused-appellant is guilty of rape under paragraph 1(b), not paragraph 1(a), of Article 266-A of the RPC, as amended because paragraph 1(b) refers to the rape of a female "deprived of reason," a phrase that pertains to mental abnormality, deficiency or retardation. Thus, it disposed the case in this wise:

WHEREFORE, the appeal is DENIED. The Decision dated 22 June 2016 [sic] of Branch 94 of the Regional Trial Court of Quezon City in Criminal Case No. R-QZN-14-02382-CR is AFFIRMED with MODIFICATION in that accused-appellant Ruben Castillo y De Vera is found guilty of simple rape under paragraph 1(b), Article 266-A of the Revised Penal Code, as amended.

SO ORDERED.⁶

Hence, this appeal. Accused-appellant adopts the same assignment of error he raised before the appellate court, viz.:

THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.⁷

Accused-appellant asserts that there was no allegation that he employed force and intimidation against AAA and that AAA's mental retardation weakens her credibility as a witness.

⁵ Id. at 45-46.

⁶ *Rollo*, p. 9.

⁷ *CA rollo*, p. 26.

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The Court's Ruling

The appeal is denied.

Carnal knowledge with a mental retardate whose mental age is below 12 years old should be designated as statutory rape.

Before the enactment of the Anti-Rape Law of 1997 (R.A. No. 8353), the commission of rape is defined as follows:

ART. 335. When and how rape is committed. — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

Thus, before October 1997, rape of a demented woman fell under the circumstance of “deprived of reason or otherwise unconscious” under paragraph 2, Article 335 of the RPC.

When R.A. No. 8353 took effect in October 1997, the law on rape was amended so that paragraph 2, Article 335 was transposed to paragraph 1(b), Article 266-A, and the word “demented” can now be found under paragraph (d). Thus:

Article 335 of the RPC	Article 266-A of the RPC, as amended by R.A. No. 8353
<p>Art. 335. When and how rape is committed. — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:</p> <ol style="list-style-type: none"> 1. By using force or intimidation; 2. When the woman is <u>deprived of reason or otherwise unconscious</u>; and 	<p>Art. 266-A. Rape; When and How Committed. — Rape is committed:</p> <ol style="list-style-type: none"> 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances: <ol style="list-style-type: none"> a) Through force, threat, or intimidation; b) When the offended party is <u>deprived of</u>

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	though none of the circumstances mentioned above be present.
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The question now is under which paragraph does rape of a female retardate with mental age below 12 years old fall?

In the 2016 case of *People v. Rodriguez*,⁸ the Court held that carnal knowledge of a female mental retardate with the mental age below 12 years of age is rape of a woman deprived of reason. Thus, the accused's rape fell under paragraph 1(b), Article 266-A of the RPC.

Citing *People v. Montivalco*,⁹ the Court, in *Rodriguez*, declared that:

[P]aragraph 1, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, provides for two (2) circumstances when carnal knowledge of a woman with mental disability is considered rape. Subparagraph (b) thereof refers to rape of a person "deprived of reason" while subparagraph (d) refers to rape of a "demented person." The term "deprived of reason" has been construed to encompass those suffering from mental abnormality, deficiency or retardation. The term "demented," on the other hand, means having *dementia*, which Webster defines as mental deterioration; also madness, insanity. *Dementia* has also been defined in Black's Law Dictionary as a "form of mental disorder in which cognitive and intellectual functions of the mind are prominently affected; x x x total recovery not possible since cerebral disease is involved." Thus, a mental retardate can be classified as a person "deprived of reason," not one who is "demented" and carnal knowledge of a mental retardate is considered rape under subparagraph (b), not subparagraph (d) of Article 266-A (1) of the Revised Penal Code, as amended. (Underscoring supplied)¹⁰

In the 2017 cases of *People v. Deniega*¹¹ and *People v. Niebres*,¹² however, the Court held that sexual intercourse with a mental retardate whose mental age is below 12 years old constitutes statutory rape. These cases cite *People v. Quintos*,¹³ which provided for the distinctions between "deprived of reason," "demented" and "mental retardation." To quote:

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

⁸ 781 Phil. 826 (2016).

⁹ 702 Phil. 643, 657 (2013).

¹⁰ 781 Phil. 826, 838 (2016).

¹¹ 811 Phil. 712 (2017).

¹² G.R. No. 230975, December 4, 2017, 847 SCRA 458.

¹³ 746 Phil. 809, 829-831 (2014).

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.** (Emphases supplied and citations omitted)

Following these developments, it is clear that as regards rape of a mental retardate, the Court now holds that, following *People v. Quintos*,¹⁴ when the victim is a mental retardate whose mental age is that of a person below 12 years old, the rape should be classified as statutory rape under Article 266-A, paragraph 1(d) of the RPC, as amended.

Statutory rape is committed when (1) the offended party is under twelve (12) years of age, and (2) the accused had carnal knowledge of her, regardless of whether there was force, threat or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority. What the law punishes in statutory

¹⁴ Id.

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rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only pertinent concern is the age of the woman and whether carnal knowledge indeed took place.¹⁵

In the present case, the prosecution satisfactorily established the mental age of the victim. Dr. Manalo conducted a battery of tests to determine the mental age, social maturity and emotional condition of AAA. Dr. Manalo testified that based on her examination, AAA has a mental age of a 5-year-old.

The prosecution also established the elements of statutory rape. *First*, AAA positively identified accused-appellant as the person who molested her. In fact, AAA became pregnant and gave birth to a boy later on. AAA's testimony is sufficient to convict accused-appellant of rape. The nature of the crime of rape often entails reliance on the lone, uncorroborated testimony of the victim, which is sufficient for a conviction, provided that such testimony is clear, convincing, and otherwise consistent with human nature.¹⁶ Questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying which is denied to the appellate courts. The rule is even more stringently applied if the appellate court has concurred with the trial court.¹⁷

All told, the prosecution has successfully established the elements of statutory rape.

Accused-appellant's defense of denial and alibi are inherently weak.

It is well-settled that denial is an "intrinsically weak defense which must be supported by strong evidence of non-culpability to merit credibility."¹⁸ Alibi, on the other hand, is the "weakest of all defenses, for it is easy to contrive and difficult to disprove and for which reason it is generally rejected. For the alibi to prosper, it is imperative that the accused establishes two elements: (1) he was not at the *locus delicti* at the time the offense was committed; and (2) it was physically impossible for him to be at the scene of the crime at the time of its commission."¹⁹

¹⁵ *People v. Manson*, 801 Phil. 130, 137 (2016).

¹⁶ *People v. Olimba*, 645 Phil. 468, 480 (2010).

¹⁷ *People v. Barcelá*, 734 Phil. 332, 342-343 (2014).

¹⁸ *People v. Deliola*, 794 Phil. 194, 209 (2016).

¹⁹ *Id.*

Accused-appellant was unable to establish any of the foregoing elements to substantiate his alibi. He merely claimed that he could not have committed the offense because he was on Banawe Street, Quezon City. This testimony is uncorroborated. Moreover, the crime was committed in the same city where accused-appellant claimed he was at. Thus, it was not physically impossible for him to be at the scene of the crime at the time of its commission. Hence, in contrast to AAA's direct, positive, and categorical testimony, accused-appellant's defense will not stand.

The perpetrator's knowledge of the victim's mental disability, at the time he committed the rape, qualifies the crime and makes it punishable by death under paragraph 10, Article 266-B of the RPC, to wit:

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

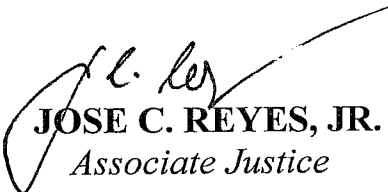
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10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.


However, an allegation in the Information of such knowledge of the offender is necessary, as a crime can only be qualified by circumstances pleaded in the indictment.²⁰ In this case, there was none. Moreover, the lower courts did not make any specific finding on the said qualifying circumstance.

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. Accordingly, the May 15, 2018 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 08643 is hereby **AFFIRMED with MODIFICATION** in that the accused-appellant Ruben Castillo y De Vera is found guilty of statutory rape under paragraph 1(d), Article 266-A of the Revised Penal Code, as amended.


SO ORDERED.



JOSE C. REYES, JR.
Associate Justice

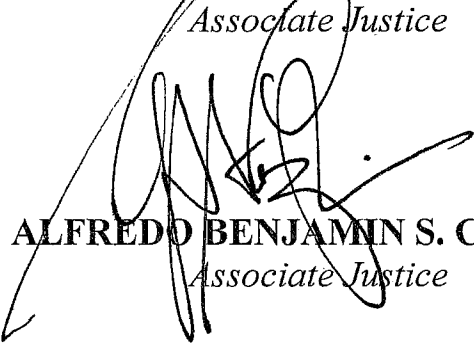
WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice


²⁰ *People v. Dela Paz*, 569 Phil. 684, 705 (2008).

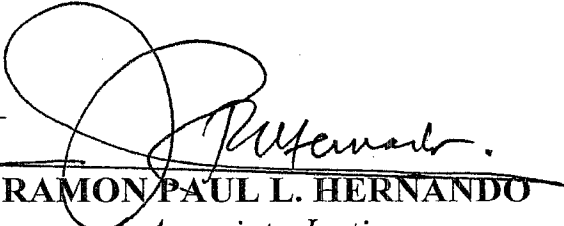

ESTELA M. BERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES, JR.
Associate Justice

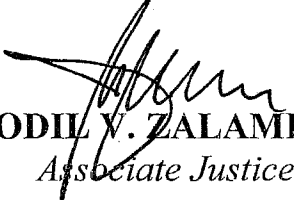

ALEXANDER G. GESMUNDO
Associate Justice

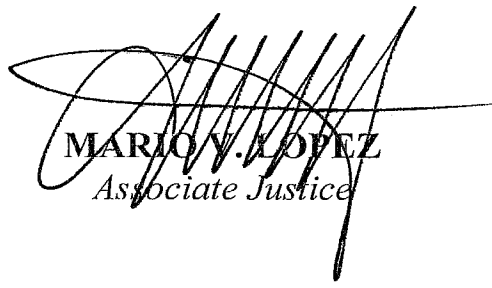

RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

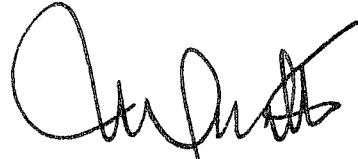

MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.



DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

DIOSDADO M. PERALTA
Chief Justice