

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff-Appellee,

- versus -

XXX,¹

Accused- Appellant.

G.R. No. 242684

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

Promulgated:

FEB 17 2021

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DECISION

CAGUIOA, J.:

Before the Court is an appeal filed under Section 13(c), Rule 124 of the Rules of Court from the Decision² dated May 29, 2018 (Decision) of the Court of Appeals, Tenth Division (CA) in CA-G.R. CR-HC No. 08957, which affirmed the Decision³ dated September 5, 2016 of Branch 16, Regional Trial Court of MMM,⁴ Bulacan (RTC), in Criminal Cases Nos. 1063-M-2005 and 1064-M-2005.

¹ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.
² *Rollo*, pp. 2-15. Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Sesinando E. Villon and Maria Filomena D. Singh concurring.
³ *CA rollo*, pp. 43-61. Penned by Presiding Judge Sita Jose Clemente.
⁴ *Supra* note 1.

The Facts

The accused-appellant XXX (the accused-appellant) was charged with two counts of Qualified Rape under the following Informations:

Criminal Case No. 1063-M-2005

That [o]n or about February, 2004, in the municipality of [NNN],⁵ province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs[,] did then and there willfully, unlawfully, and feloniously, by means of force and intimidation have carnal knowledge of [AAA],⁶ a 23[-]year[-]old mentally retarded woman, against her will and consent, and with full knowledge of her mental disability at the time of the commission of the crime.

Contrary to law.

Criminal Case No. 1063-M-2005

That [o]n or about July, 2004, in the municipality of [NNN], province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs[,] did then and there willfully, unlawfully, and feloniously, by means of force and intimidation have carnal knowledge of [AAA], a 23[-]year[-]old mentally retarded woman, against her will and consent, and with full knowledge of her mental disability at the time of the commission of the crime.

Contrary to law.⁷

Upon arraignment on June 14, 2005, the accused-appellant pleaded not guilty to the crimes charged.⁸

Version of the Prosecution

At the time of the rape incidents, the 23-year-old victim, AAA, lived with her siblings. She suffers from epilepsy and mild mental retardation. Her highest educational attainment is Grade Six.⁹

Sometime in February 2004, while AAA's siblings were out of the house, the accused-appellant, who is the husband of AAA's sister, WWW,¹⁰ called AAA. AAA obliged. Then, the accused-appellant told her: "[AAA] *para gumaling ang epilepsy mo, may gagawin lang ako sa iyo.*" AAA was perplexed and unwilling. However, the accused-appellant undressed her, took off his own clothes, and inserted his penis inside her vagina while they were on a wooden bed. AAA felt pain in her vagina.¹¹

⁵ Supra note 1.

⁶ Id.

⁷ *Rollo*, p. 3.

⁸ Id. at 4.

⁹ Id. at 3-4.

¹⁰ Supra note 1.

¹¹ *Rollo*, p. 4

The second rape incident happened sometime in July 2004. The accused-appellant employed the same pretext that AAA would be cured of her epilepsy once she allowed the accused-appellant to do something to her. Inside the kitchen, the accused-appellant forcibly undressed AAA, took off his own clothes, and inserted his penis inside AAA's vagina.¹²

GGG,¹³ sister of AAA, testified that on October 2004, she visited AAA, whose house was only adjacent to her own house. GGG noticed that AAA's belly and hips started to become bigger. Thus, GGG brought AAA to Dr. Lucila Gatchalian (Dr. Gatchalian) who performed a pregnancy test using AAA's urine sample, which yielded a positive result. GGG was shocked to discover that AAA was actually pregnant. Then, Dr. Gatchalian referred them to another doctor for an ultrasound. GGG then brought AAA to the hospital which arrived at the same findings. Likewise, GGG brought AAA to a medico-legal officer at Camp Olivas in Pampanga where AAA was found to be 16 to 17 weeks pregnant per Medico-Legal Report No. M-357-04. When she asked AAA who sexually abused her, AAA was initially reluctant and afraid to answer, but AAA eventually intimated to GGG that it was the accused-appellant who raped her. AAA said that it was the accused-appellant who was "*nakagalaw*" her, as he told AAA that her illness would be cured if she would "*nagpagalaw*" or per AAA's own words: "*inasawa*."¹⁴

Together with some companions, GGG went to the police station to report the matter. Thereafter, they filed a case at the Municipal Trial Court of MMM where a preliminary investigation was conducted. After the case was filed and as her belly grew bigger, AAA always looked disturbed and "*tulala*." AAA gave birth to a baby girl (BBB¹⁵) sometime in April 2005.¹⁶

Clinical Psychologist Ms. Nimia De Guzman (Ms. De Guzman) of the National Center for Mental Health examined AAA and determined that she has a mental age of an eight-year-old child as she is unable to perceive things in her environment in relation to her chronological age of 23 years old at that time. Having a mental Intelligence Quotient (IQ) of 54, Ms. De Guzman attested, among others, that AAA is suffering from Mild Mental Retardation. AAA cannot even do a simple mathematical computation and cannot perceive the relationship of things. Ms. De Guzman opined that AAA has no clear perception of what sexual intercourse is and she would probably just allow things to happen without any understanding about it or its consequences. Ms. De Guzman opined that given AAA's psychological illness and epilepsy, AAA needs a guardian to supervise and safeguard her. Ms. De Guzman also stated that based on AAA's actuations, the latter did not like what the accused-appellant did to her.¹⁷

¹² Id.

¹³ Supra note 1.

¹⁴ *Rollo*, pp. 4-5.

¹⁵ Supra note 1.

¹⁶ *Rollo*, pp. 4-5.

¹⁷ Id. at 5.



Version of the Defense

The accused-appellant vehemently denied the charges against him. He averred that from February 30, 2004 to July 30, 2004, he was at San Roque, Cabiao, Nueva Ecija working in a poultry farm owned by one Resurrecion Pablo. During this period, he did not go home and it was his wife, WWW, who visited him every payday. Thus, he vouched that it was impossible for him to commit the crimes imputed against him.¹⁸

The accused-appellant added that he went home to Bulacan on July 30, 2004. The following day, he worked for WWW's uncle as a farmer from 7:00 a.m. to 5:00 p.m. He came to know of his indictment for rape on October 20, 2004 without even knowing that AAA was pregnant. After learning that AAA already gave birth, the accused-appellant proposed to GGG that he and the child should undertake Deoxyribonucleic Acid (DNA) Examination.¹⁹

In relation thereto, the defense filed a Motion to Allow Accused and the Putative Child To Undergo Blood Testing, which the RTC granted in its Order dated May 9, 2011. Upon finding that he, AAA, and BBB have the same "O" blood type, the accused-appellant moved for the conduct of DNA examination, which the RTC again granted in its Orders dated November 8, 2012 and February 21, 2013. Thus, on February 28, 2013, Police Chief Inspector Edmar A. Dela Torre (PCI Dela Torre), Chief of the DNA Analysis Section of the Philippine National Police (PNP), Camp Crame, Quezon City took the biological samples of the accused-appellant, AAA, and BBB inside the chambers and in the presence of the RTC judge as witnessed by counsels of both parties.²⁰

Subsequently, on June 5, 2013, pursuant to the directive of the RTC, PCI Dela Torre appeared before the RTC and submitted the DNA Laboratory Report under Case No. DNA-NHQ-076-13. Eventually, on cross-examination, the accused-appellant was confronted with the results of the DNA examination indicating that he is the father of BBB. The accused-appellant, however, denied that he understood the said results. Nevertheless, the accused-appellant admitted that: (1) he knew that AAA is a mentally retardate woman; (2) she has been such even long before February 4, 2005; (3) due to her epilepsy, even if AAA was 23 years old already in the year 2004, she has been acting like a child; and (4) AAA, at the time of the incident, was acting like a seven or eight-year-old child.²¹

Thereafter, on rebuttal, the prosecution presented PCI Dela Torre. He identified before the RTC the same DNA Laboratory Report, which he personally prepared, concluding therein that: "*the DNA profile obtained from [BBB] (076-13-A347) is consistent with that of an offspring of [the accused-*

¹⁸ Id. at 6.

¹⁹ Id.

²⁰ Id.

²¹ Id. at 6-7.

*appellant] (076-13-A346) and [AAA] (076-13-A348)."*²² PCI Dela Torre attested that it can be certain that the accused-appellant is the father of BBB.²³

Ruling of the RTC

In its Decision²⁴ dated September 5, 2016, the RTC found the accused-appellant guilty beyond reasonable doubt of two counts of Rape. The dispositive portion of said Decision reads:

WHEREFORE, premises carefully considered, this Court finds accused [XXX] **GUILTY BEYOND REASONABLE DOUBT** of two counts of *Rape* as defined and penalized under Article 266-A and 266-B of the *Revised Penal Code*, and he is hereby sentenced to suffer the penalty of ***reclusion perpetua*** for each case, without eligibility for parole.

Likewise, for each case, the accused is likewise (*sic*) ordered to pay private complainant [AAA] the following:

1. Php75,000.00 as civil indemnity;
2. Php75,000.00 as moral damages; and
3. Php25,000.00 as exemplary damages.

All damages awarded shall earn interest at the legal rate of 6% per annum from the date of finality of this judgment until fully paid.

x x x x

SO ORDERED.²⁵

The RTC held that while paternity is not an element of the crime of Rape, the fact that the child born by AAA is an offspring of the accused-appellant, bolstered by the fact of sexual congress between the accused-appellant and AAA, who is a mental retardate, sufficiently proves all the elements of the crime of Rape.²⁶

Aggrieved, the accused-appellant appealed to the CA.

Ruling of the CA

On appeal, in its Decision²⁷ dated May 29, 2018, the CA affirmed the RTC's Decision with modifications:

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. Accordingly, the September 5, 2016 Decision of the Regional Trial Court of [MMM], Bulacan, Branch 16, convicting accused-appellant [XXX] in *Criminal Cases Nos. 1063-M-2005 and 1064-M-2005*

²² CA rollo, p. 58. Italics in the original.

²³ Rollo, p. 7.

²⁴ Supra note 3.

²⁵ CA rollo, pp. 60-61.

²⁶ Id. at 59.

²⁷ Supra note 2.



of Qualified Rape, is **AFFIRMED** with **MODIFICATIONS** in that accused-appellant is hereby **ORDERED** to **PAY** the increased amounts of P100,000.00 as civil indemnity, Php100,000.00 as moral damages, and Php100,000.00 as exemplary damages for each count of rape with six percent (6%) interest from finality of judgment until fully paid.

SO ORDERED.²⁸

The CA ruled that the prosecution was able to prove beyond reasonable doubt that the accused-appellant was guilty of raping AAA.²⁹ It further held that rape of a mental retardate falls under paragraph 1(b), not paragraph 1(d), of Article 266-A of the Revised Penal Code (RPC), as the same precisely refers to rape of a female “deprived of reason.”³⁰ Furthermore, proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act.³¹ Lastly, it held that the rape is qualified because the accused-appellant knew of the mental disability of AAA at the time he raped her.³²

Hence, this appeal.

Issues

The issue before the Court is whether the CA erred in finding the accused-appellant guilty beyond reasonable doubt of two counts of Qualified Rape.

The Court’s Ruling

After a careful review and scrutiny of the records, the Court affirms the conviction of the accused-appellant with modification as to the nomenclature of the crime.

The accused-appellant should be convicted of Qualified Statutory Rape under Article 266-A, paragraph 1(d)

Article 266-A, in relation to Article 266-B of the RPC, as amended by Republic Act (R.A.) No. 8353,³³ provides:

Article 266-A. *Rape: When And How Committed.* — Rape is [c]ommitted:

²⁸ *Rollo*, p. 14.

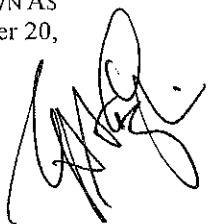
²⁹ *Id.* at 13.

³⁰ *Id.* at 10.

³¹ *Id.*

³² *Id.* at 13.

³³ 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, or The Anti-Rape Law of 1997, September 20, 1997.



- 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.**

- 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

x x x x

Article 266-B. *Penalty.* — x x x

x x x x

The death penalty shall be imposed if the crime of rape is committed with any of the following aggravating or 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 commission of the crime. (Emphasis supplied)

The elements of rape under Article 266-A, paragraph 1 are the following: (1) the offender has carnal knowledge of the victim; and (2) such act was accomplished through force, threat, or intimidation, or when the victim is deprived of reason or unconscious, or **when the victim is under 12 years old.**³⁴

In the instant case, as correctly held by the RTC and CA, the prosecution was able to sufficiently establish all the elements of the crime of Rape. However, considering that AAA is a mental retardate and Ms. De Guzman determined that her mental age is equivalent to that of an eight-year-old child, **the accused-appellant should be guilty of the crime of Statutory**

³⁴ *People v. Josen*, 751 Phil. 450, 456 (2015).

Rape under Article 266-A, paragraph 1(d), and not paragraph 1(b) of the RPC as held by the CA.

Based on recent jurisprudence,³⁵ that if a mentally retarded or intellectually disabled person whose mental age is less than 12 years old is raped, the rape is considered committed under paragraph 1(d), and not paragraph 1(b) of Article 266-A of the RPC. Thus, in *People v. Quintos*,³⁶ the Court held:

x x x [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.**

In all the above circumstances, rape is ensured because the victim lacks the awareness or presence of mind to resist a sexual abuse. The unconscious, the manipulated, the reason-deprived, the demented, and the young cannot be expected to offer resistance to sexual abuse for the simple reason that their mental statuses render them incapable of doing so. They are incapable of rational consent. Thus, sexual intercourse with them is rape. No evidence of force, intimidation, or resistance is necessary.³⁷ (Emphasis supplied)

In the more recent case of *People v. Castillo*,³⁸ the Court ruled:

Following these developments, it is clear that as regards rape of a mental retardate, the Court now holds that, following *People v. Quintos*, **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.**

x x x x

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.³⁹ (Emphasis and underscoring supplied)

As shown in the Psychological Report submitted by Ms. De Guzman, AAA was found to be suffering from mild mental retardation with an IQ of 54. **Her mental age is equivalent to that of an eight-year-old child.**⁴⁰ Further, according to Ms. De Guzman, AAA also suffers from a type of

³⁵ *People v. Deniega*, 811 Phil. 712, 721 (2017); *People v. Niebres*, 822 Phil. 68, 75-76 (2017); *People v. Quintos*, 746 Phil. 809, 830-831 (2014).

³⁶ 746 Phil. 809 (2014).

³⁷ Id. at 830-831.

³⁸ G.R. No. 242276, February 18, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66332>>.

³⁹ Id.

⁴⁰ *Rollo*, p. 11.



physiological disorder diagnosed as Epilepsy, which hampers her intellectual, emotional, and social adjustments.⁴¹

In addition, it was sufficiently alleged in the Informations and proven by the evidence that the accused-appellant had knowledge of AAA's mental retardation. To be sure, the accused-appellant had categorically admitted before the RTC that: (1) he knew that AAA is a mental retardate; (2) she has been such even long before February 4, 2005; (3) due to her epilepsy, AAA, even when she was 23 years old in the year 2004, has been acting like a child; and (4) AAA, at the time of the rape incidents, was acting like a seven or eight-year-old child.⁴²

Thus, although AAA was already 23 years old at the time of the rape incidents, since it was established that AAA is a mental retardate, and her mental age is equivalent to that of an eight-year-old child, the accused-appellant should be held liable for Statutory Rape under Article 266-A, paragraph 1(d) of the RPC.

Further, under Article 266-B, paragraph 10 of the RPC, the rape shall be qualified "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." Being in the nature of a qualifying circumstance, this should be specifically alleged in the Information.⁴³

In this case, the Informations filed against the accused-appellant specifically alleged this qualifying circumstance. This, in turn, was proved by the accused-appellant's own admission in court.⁴⁴ Thus, the accused-appellant should be convicted of Qualified Statutory Rape under Article 266-A, paragraph 1(d) of the RPC.

The credibility and competence of AAA cannot be disregarded by the defense merely by reason of her mental retardation

The accused-appellant's main line of defense is anchored on the credibility of the victim, AAA. The accused-appellant argues that AAA's competence as a witness, by reason of her mental retardation, is impaired.

However, the Court finds such argument untenable.

The recognized rule in this jurisdiction is:

⁴¹ CA rollo, p. 50.

⁴² Rollo, pp. 13-14.

⁴³ *People v. Pascua*, G.R. No. 151858, November 27, 2003, 416 SCRA 548, 555.

⁴⁴ Rollo, p. 13.



[T]he assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand; a vantage point denied appellate courts — and when his findings have been affirmed by the Court of Appeals, these are generally binding and conclusive upon this Court.⁴⁵

Both the RTC and CA found AAA a competent and credible witness despite her mental retardation. Thus, there is no reason to overturn said finding by the lower courts.

Moreover, the credibility and competence of AAA cannot be disregarded merely by reason of her mental retardation. In the 2010 case of *People v. Castillo*,⁴⁶ the Court upheld the credibility of a person suffering from mental retardation:

[Emphasis must be given to the fact] that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it is shown that they can communicate their ordeal capably and consistently. Rather than undermine the gravity of the complainant's accusations, it even lends greater credence to her testimony, that, someone as feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact suffered such crime at the hands of the accused. Moreover, it has been jurisprudentially settled that when a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility needed to convict the accused.⁴⁷

Verily, the accused-appellant cannot discredit AAA and exculpate himself from the atrocious crimes that he committed by attacking the credibility of AAA merely by reason of her mental disability.

The DNA examination conducted revealed that the offspring of AAA is indeed the child of the accused-appellant

The accused-appellant's defense of denial and alibi must likewise fail.

Denial and alibi are inherently weak defenses. Unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the victim. In the case of an alibi, the requirements of time and place should be strictly complied with by the defense, meaning that the accused must not only show that he was somewhere else, but that it was physically impossible for him to have been at the scene of the crime at the time it was committed.⁴⁸

⁴⁵ *People v. Pareja*, 724 Phil. 759 (2014).

⁴⁶ G.R. No. 186533, August 9, 2010, 627 SCRA 452, 471.

⁴⁷ Id.

⁴⁸ *People v. Palotes*, 763 Phil. 118 (2015).



In the instant case, the accused-appellant failed to prove that it was physically impossible for him to have been at the scene of the crime at the time the alleged rapse was committed. Although he testified that he was in Nueva Ecija from February 7, 2004 to July 30, 2004 working in a poultry farm owned by one Resurrecion Pablo and that it was his wife who visited him every payday,⁴⁹ the defense never presented said witnesses to corroborate his testimony. He even admitted that he went home to Bulacan on July 30, 2004.⁵⁰ It is thus difficult for the Court to believe the accused-appellant's bare and unsupported defenses of denial and alibi.

More importantly, the DNA examination conducted by PCI Dela Torre established that he is the father of the child of AAA.⁵¹

While it is true that paternity is not an essential element to prove the fact of rape, proof of paternity of a rape victim's child establishes the fact that the accused-appellant, who is a biological match with the victim's child, had carnal knowledge of the victim, which is an element of rape when it is done against the latter's will and without her consent.⁵²

In *People v. Yatar*,⁵³ the Court explained what DNA is and how it is used as evidence to link a suspect to a crime:

DNA is a molecule that encodes the genetic information in all living organisms. A person's DNA is the same in each cell and it does not change throughout a person's lifetime; the DNA in a person's blood is the same as the DNA found in his saliva, sweat, bone, the root and shaft of hair, earwax, mucus, urine, skin tissue, and vaginal and rectal cells. Most importantly, because of polymorphisms in human genetic structure, no two individuals have the same DNA, with the notable exception of identical twins.

DNA print or identification technology has been advanced as a uniquely effective means to link a suspect to a crime, or to exonerate a wrongly accused suspect, where biological evidence has been left. For purposes of criminal investigation, DNA identification is a fertile source of both inculpatory and exculpatory evidence. It can assist immensely in effecting a more accurate account of the crime committed, efficiently facilitating the conviction of the guilty, securing the acquittal of the innocent, and ensuring the proper administration of justice in every case.

DNA evidence collected from a crime scene can link a suspect to a crime or eliminate one from suspicion in the same principle as fingerprints are used. Incidents involving sexual assault would leave biological evidence such as hair, skin tissue, semen, blood, or saliva which can be left on the victim's body or at the crime scene. Hair and fiber from clothing, carpets, bedding, or furniture could also be transferred to the victim's body during the assault. Forensic DNA evidence is helpful in proving that there was physical contact between an assailant and a victim. If properly collected

⁴⁹ *Rollo*, p. 5.

⁵⁰ *Id.* at 6.

⁵¹ *CA rollo*, p. 58.

⁵² *People v. Clemeno*, G.R. No. 215202, March 14, 2018, 859 SCRA 130, 140.

⁵³ G.R. No. 150224, May 19, 2004, 428 SCRA 504.



from the victim, crime scene or assailant, DNA can be compared with known samples to place the suspect at the scene of the crime.⁵⁴

Further, in *Herrera v. Alba*,⁵⁵ the nature of a DNA analysis in determining paternity is explained:

As earlier stated, certain regions of human DNA show variations between people. In each of these regions, a person possesses two genetic types called “allele”, one inherited from each parent. In [a] paternity test, the forensic scientist looks at a number of these variable regions in an individual to produce a DNA profile. Comparing next the DNA profiles of the mother and child, it is possible to determine which half of the child's DNA was inherited from the mother. The other half must have been inherited from the biological father. The alleged father's profile is then examined to ascertain whether he has the DNA types in his profile, which match the paternal types in the child. If the man's DNA types do not match that of the child, the man is excluded as the father. If the DNA types match, then he is not excluded as the father.⁵⁶

In this relation, Section 9 of the Rules on DNA Evidence⁵⁷ reads:

Section 9. *Evaluation of DNA Testing Results.* — In evaluating the results of DNA testing, the court shall consider the following:

- (a) The evaluation of the weight of matching DNA evidence or the relevance of mismatching DNA evidence;
- (b) The results of the DNA testing in the light of the totality of the other evidence presented in the case; and that
- (c) DNA results that exclude the putative parent from paternity shall be conclusive proof of non-paternity. If the value of the Probability of Paternity is less than 99.9%, the results of the DNA testing shall be considered as corroborative evidence. ***If the value of the Probability of Paternity is 99.9% or higher, there shall be a disputable presumption of paternity.*** (Emphasis and italics supplied)

Under the Rules on DNA Evidence, if the value of the probability of paternity is 99.9% or higher, there shall be a disputable presumption of paternity. Disputable presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence.⁵⁸

Based on the result of the DNA examination, the accused-appellant is *disputably presumed* to be the father of AAA's child. The DNA examination

⁵⁴ Id. at 514-515.

⁵⁵ G.R. No. 148220, June 25, 2005, 460 SCRA 197, as cited in *People v. Corpuz*, 812 Phil. 62, 92-91 (2017).

⁵⁶ Id. at 210-211.

⁵⁷ A.M. No. 06-11-5-SC dated October 2, 2007.

⁵⁸ RULES OF COURT, Rule 131, Sec. 3.



results revealed that “*the DNA profile obtained from [BBB] (076-13-A347) is consistent with that of an offspring of [the accused-appellant] (076-13-A346) and [AAA] (076-13-A348).*”⁵⁹

In fact, PCI Dela Torre testified that he is certain that the accused-appellant is the father of AAA’s child.⁶⁰ When asked if it is 100% certain, PCI Dela Torre declared that “**they do probabilities, such that when he says he is certain that the accused is the father, the theoretical assumption is that the certainty that the accused is the father is one trillion.**”⁶¹

Notably, the accused-appellant failed to dispute the disputable presumption that was established as a result of the DNA examination. It was not contradicted and overcome by other evidence considering that the accused-appellant did not object to the admission of the results of the DNA examination nor did he present evidence to rebut the same.

It must also be stressed that it was the accused-appellant himself who moved for a DNA examination.⁶² When the accused-appellant was confronted with the results of the DNA examination which indicated that he is the father of AAA’s child, he merely denied that he understood the results of the test.⁶³

In the same way, the defense failed to assail the result and the dependability of the procedure before the RTC.⁶⁴ The defense only questioned the test’s accuracy now given that the results are not favorable to the accused-appellant.⁶⁵

In assessing the probative value of DNA evidence, the following factors are considered by the courts:

How the samples were collected, how they were handled, the possibility of contamination of the samples, the procedure followed in analyzing the samples, whether the proper standards and procedures were followed in conducting the tests, and the qualification of the analyst who conducted the tests.⁶⁶

In the instant case, there is no reason to doubt the accuracy and dependability of the DNA examination conducted. As held by the RTC, the collection of the biological samples was done in the chambers of the RTC judge, in the presence of the public prosecutor, defense counsel, and the RTC judge herself.⁶⁷ Both parties witnessed how the samples were collected and how they were handled.⁶⁸ PCI Dela Torre personally processed and examined

⁵⁹ CA *rollo*, p. 58. Emphasis supplied.

⁶⁰ *Id.* at 56.

⁶¹ *Id.* Emphasis supplied.

⁶² *Rollo*, p. 13.

⁶³ *Id.* at 6.

⁶⁴ *Id.* at 13.

⁶⁵ *Id.*

⁶⁶ *People v. Yatar*, *supra* note 53, at 515.

⁶⁷ CA *rollo*, p. 59.

⁶⁸ *Id.*



the biological samples using scientifically valid standards in conducting the DNA examinations.⁶⁹ His qualification as an expert witness, and the procedures he undertook in processing the said biological samples, were not questioned by the defense before the RTC.⁷⁰

All told, the accused-appellant is guilty **beyond reasonable doubt** of two counts of Qualified Statutory Rape.

Appropriate penalty and damages

Rape is punishable by *reclusion perpetua*, pursuant to Article 266-B of the RPC. The crime is qualified by Article 266-B, paragraph 10⁷¹ of the RPC, the imposable penalty for which, as found by both the RTC and CA, is death. However, due to the passage of R.A. No. 9346⁷² which prohibits the imposition of the death penalty, the CA is therefore correct in ruling that the proper imposable penalty is *reclusion perpetua*, without eligibility for parole.

The damages awarded by the CA in the questioned Decision are affirmed. In accordance with *People v. Jugueta*,⁷³ the accused-appellant is ordered to pay AAA the following amounts: One Hundred Thousand Pesos (₱100,000.00) as civil indemnity, One Hundred Thousand Pesos (₱100,000.00) as moral damages, and One Hundred Thousand Pesos (₱100,000.00) as exemplary damages for each count of Qualified Statutory Rape. All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

WHEREFORE, premises considered, the appeal is **DISMISSED** for lack of merit. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated May 29, 2018 of the Court of Appeals, Tenth Division in CA-G.R. CR-HC No. 08957 with **MODIFICATION**. The accused-appellant **XXX** is found guilty beyond reasonable doubt for two (2) counts of **QUALIFIED STATUTORY RAPE** under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended by Republic Act No. 8353. He is hereby sentenced to suffer the penalty of *reclusion perpetua* for each count of Qualified Statutory Rape, *without eligibility for parole*. He is likewise ordered to pay the private complainant One Hundred Thousand Pesos (₱100,000.00) as civil indemnity, One Hundred Thousand Pesos (₱100,000.00) as moral damages, and One Hundred Thousand Pesos (₱100,000.00) as exemplary damages for each count of Qualified Statutory Rape. All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

⁶⁹ Id.

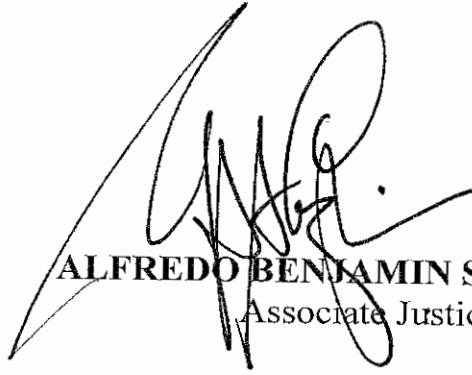
⁷⁰ Id.

⁷¹ "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."

⁷² AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES, June 24, 2006.

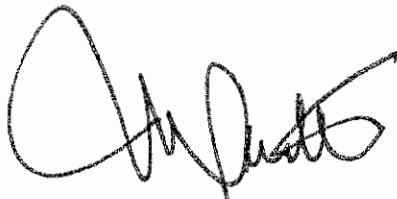
⁷³ 783 Phil. 806 (2016).

SO ORDERED.

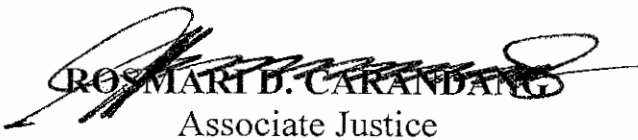


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

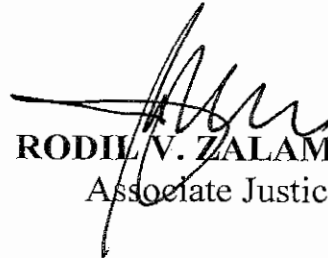
WE CONCUR:



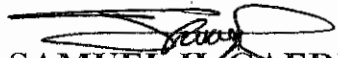
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ROSMARI D. CARANDANG
Associate Justice



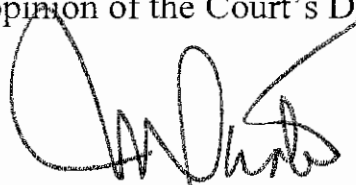
RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
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