



**Republic of the Philippines
Supreme Court
Baguio City**

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 219957

Present:

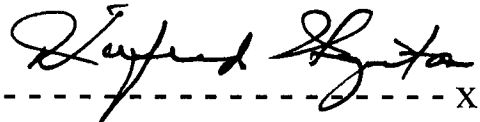
- versus -

VELASCO, JR., *J.*, *Chairperson*,
BERSAMIN,
LEONEN,
MARTIRES, and
GISMUNDO, *JJ.*

**ELEUTERIO URMAZA y
TORRES,**
Accused-Appellant.

Promulgated:

April 4, 2018



X ----- X

DECISION

MARTIRES, J.:

On appeal is the 27 February 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 06343, which affirmed the 19 July 2012 Decision² of the Regional Trial Court, Branch 41, Dagupan City (RTC), in Criminal Case No. 2011-0462-D finding accused-appellant Eleuterio Urmaza y Torres (*Urmaza*) guilty beyond reasonable doubt of the crime of qualified rape.



¹ *Rollo*, pp. 2-17; penned by Associate Justice Stephen C. Cruz, with Associate Justices Fernanda Lampas Peralta and Ramon Paul L. Hernando, concurring.

² *CA rollo*, pp. 39-45; penned by Presiding Judge Emma M. Torio.

FACTS

On the basis of a *Sinumpaang Salaysay* subscribed by the private complainant AAA, a deaf-mute, Urmaza was charged with qualified rape before the RTC of Dagupan City, in an Amended Information which reads:

That on or about the 7th day of September 2011, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ELEUTERIO URMAZA y TORRES, by means of force and intimidation, did then and there, wilfully, unlawfully and criminally, have carnal knowledge upon complainant [AAA], who is a demented person (deaf-mute), against her will and consent to the damage and prejudice of the latter.

Contrary to Article 266-A par. 1-a of the Revised Penal Code, as amended by RA 8353.³

When arraigned, Urmaza entered a plea of “not guilty.” Thereafter, trial ensued.

Evidence for the Prosecution

The prosecution presented seven (7) witnesses, namely: AAA, AAA’s mother BBB, Joshua Illumin (*Joshua*), Dr. Mary Gwendolyn Luna (*Dr. Luna*), Dr. Rosalina Caoile (*Dr. Caoile*), Police Officer 1 (*PO1*) Jocelyn Tappa, and PO1 Jobert Sarzadilla. Their combined testimonies tended to establish the following:

With the assistance of a sign language interpreter, AAA recounted that on 7 September 2011, at about 11:00 o’clock in the morning, she was inside her house in Dagupan City taking care of her newborn baby when someone arrived.⁴ She put down her baby and saw that it was Urmaza who entered the house. She prepared coffee for him. After he had drunk the coffee, AAA asked him to leave as she was about to sleep. Urmaza, however, did not leave; instead he closed the door and windows. He embraced AAA, touched her breasts, and removed her shirt.⁵ He then removed his pants and held AAA with both hands. AAA struggled and pushed him away to free herself, but Urmaza was strong and he was able to insert his penis into her vagina four (4) times; after which AAA felt something wet and sticky.⁶

³ *Rollo*, p. 3.

⁴ TSN, 10 December 2012, p. 3.

⁵ *Id.*

⁶ *Id.* at 4.

Joshua, AAA's neighbor, attested that on 7 September 2011, at about 11:30 in the morning, he was in front of AAA's house⁷ making a cage for doves when he saw Urmaza enter AAA's house.⁸ He peeped through a hole and he saw Urmaza insert his penis into AAA's vagina⁹ while touching AAA's breasts. He was frightened so he called his cousin John Mark and they both watched Urmaza and AAA.¹⁰ Joshua got hold of a cellular phone, handed it to John Mark, while they looked for a good place where they could take a video of what was happening between Urmaza and AAA. John Mark, however, accidentally touched a galvanized iron that made a sound. The noise caught Urmaza's attention prompting him to leave AAA's house.¹¹

BBB testified that Urmaza was the brother-in-law of her late husband.¹² After her husband's death, Urmaza stood as father to her children. BBB's children were close to Urmaza and he would usually visit them.¹³ On 7 September 2011, BBB learned from Joshua that Urmaza had raped AAA. BBB was shocked and confronted Urmaza, but the latter denied any wrongdoing. Upon reaching home, AAA, through sign language, admitted to BBB that she was raped by Urmaza. Thereafter, BBB went to the police station and reported the incident. She then accompanied the police to Urmaza's house where he was arrested.

Dr. Caoile testified on the psychiatric examination she conducted on AAA, as well as on the findings in the medical certificate dated 10 October 2011,¹⁴ and the Psychiatric Evaluation Report dated 23 October 2011.¹⁵ She attested that AAA suffered from mental retardation and did not know the idea of safety.¹⁶ Meanwhile, the prosecution and the defense stipulated on the findings made by Dr. Luna which was detailed in the Medico Legal Report.¹⁷

Evidence for the Defense

The defense presented the lone testimony of Urmaza.

He deposed that on 7 September 2011, at 11:30 in the morning, he went to see AAA at her house to inform the latter that her grandmother had

⁷ TSN, 23 May 2012, p. 3.

⁸ Id. at 7-8.

⁹ Id. at 8-9.

¹⁰ Id. at 5.

¹¹ Id.

¹² TSN 13 June 2012, p. 4.

¹³ Id. at 5.

¹⁴ Evidence for the prosecution, p.11; Exh. "H."

¹⁵ Id. at 12-13; Exh. "I."

¹⁶ TSN, 12 March 2012, p. 4.

¹⁷ TSN, 22 February 2012, p. 3.

died.¹⁸ Upon arriving at AAA's house, her sister-in-law served him coffee. After he had drunk the coffee, AAA approached him and asked for money; then he and AAA had sexual intercourse, which many of their neighbors allegedly witnessed. After the tryst, AAA bid him goodbye. In the afternoon of the said date, he was arrested.

Urmaza asserted that he and AAA had a relationship, and they had engaged in sexual intercourse for quite a long time even before 7 September 2011.¹⁹

The RTC Ruling

In its decision, the RTC found Urmaza guilty beyond reasonable doubt of the crime of qualified rape and sentenced him to suffer the penalty of *reclusion perpetua*.

In so ruling, the RTC noted Urmaza's admission that he had sexual intercourse with AAA on 7 September 2011. It did not believe Urmaza's claim that AAA consented to the sexual congress because they were in a relationship. Rather, the trial court found that AAA was suffering from mental retardation and was thereby deprived of reason. Hence, it concluded that the deed was tantamount to rape, qualified by Urmaza's knowledge of AAA's mental retardation. The *fallo* reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Eleuterio Urmaza **GUILTY** beyond reasonable doubt of the crime of Qualified Rape defined and penalized under Article 266-A, sub-par. b in relation to Article 266-B, par. 6 sub-par. 10 of the Revised Penal Code, as amended by Republic Act No. 8353 and is hereby sentenced the (sic) suffer the penalty of *Reclusion Perpetua*. The accused is further ordered to indemnify the private complainant the amounts of ₱50,000.00 as compensatory damages, ₱50,000.00 as moral damages; and ₱25,000.00 as exemplary damages.

The period during which the accused was detained at the District Jail, Dagupan City, shall be credited to him in full.

SO ORDERED.

Aggrieved, Urmaza filed an appeal before the CA.



¹⁸ TSN, 8 May 2013, p. 3.

¹⁹ Id. at 4.

The CA Ruling

In its assailed decision, the CA affirmed with modification the RTC's ruling. It held that AAA's testimony was credible and her narration of the rape was convincing and straightforward, with detailed specifics as only one telling the truth could give.

The appellate court took into account Dr. Caoile's psychiatric evaluation and found that AAA was indeed a mental retardate. Citing jurisprudence, it ruled that carnal knowledge of a woman who is a mental retardate is considered rape, and proof of force or intimidation is unnecessary because a mental retardate is incapable of giving consent to the sexual act.

Finally, the CA adjusted the RTC's monetary awards in keeping with recent jurisprudence. The dispositive portion reads:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby **DENIED**. The Decision dated July 19, 2012 of the Regional Trial Court of Dagupan City, Branch 41 is hereby **AFFIRMED with MODIFICATION**, that is, accused-appellant Eleuterio Urmaza y Torres is found **GUILTY** beyond reasonable doubt of the crime of Qualified Rape defined and penalized under Article 266-A, sub-par. b in relation to Article 266-B, par. 6, sub-par. 10 of the Revised Penal Code, as amended by Republic Act No. 8353 and is hereby sentenced to suffer the penalty of *Reclusion Perpetua* without eligibility for parole, in lieu of death. Accused-appellant is **ORDERED** to pay the victim AAA the following sums: a) Php 75,000.00 as and for civil indemnity; b) Php 75,000.00 as and for moral damages; c) Php 30,000.00 as and for exemplary damages as provided by the Civil Code in line with recent jurisprudence plus legal interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Hence, this appeal.

ISSUE

WHETHER IT WAS PROVEN BEYOND REASONABLE DOUBT THAT URMAZA IS GUILTY OF QUALIFIED RAPE.

In a Resolution,²⁰ dated 9 November 2015, the Court required the parties to submit their respective supplemental briefs simultaneously, if they

²⁰ Rollo, pp. 23-24.



so desired. In his Manifestation in lieu of Supplemental Brief,²¹ Urmaza manifested that he was adopting the Appellant's Brief filed before the CA as his supplemental brief, for the same had adequately discussed all the matters pertinent to his defense. In its Manifestation and Motion,²² the Office of the Solicitor General stated that it was likewise adopting its Brief filed before the CA and would already dispense with the filing of a supplemental brief.

THE COURT'S RULING

Foremost, this Court would like to address its observation as to the use of the word "demented" in the Amended Information under which Urmaza was charged.

Article 266-A, paragraph 1 of the RPC, as amended, provides for two circumstances when having carnal knowledge of a woman with a mental disability is considered rape:

1. Paragraph 1(b): when the offended party is deprived of reason x x x;
2. Paragraph 1(d): when the offended party is x x x demented.²³

It was alleged in the Amended Information that AAA is a demented person (deaf-mute). The tapestry of this case, however, depicts a victim who is suffering from mental retardation, not dementia. For clarity's sake, the Court must restate that mental retardation and dementia are not synonymous and thus should not be loosely interchanged.

The cases of *People v. Caoile*²⁴ and *People v. Ventura*²⁵ laid down a technical definition of the term "demented" as referring to a person who has dementia, which is a condition of deteriorated mentality, characterized by marked decline from the individual's former intellectual level and often by emotional apathy, madness, or insanity.²⁶

On the other hand, the phrase *deprived of reason* under paragraph 1(b) has been interpreted to include those suffering from mental abnormality, deficiency, or retardation. Thus, AAA, who was clinically diagnosed to be a

²¹ Id. at 26-28.

²² Id. at 31-33.

²³ *People v. Caoile*, 710 Phil. 564, 574 (2013).

²⁴ Id. at 581.

²⁵ 729 Phil. 566, 572 (2014).

²⁶ *People v. Caoile*, supra note 23.



mental retardate, can be properly classified as a person who is "deprived of reason," not one who is "demented."²⁷

At any rate, the erroneous designation of AAA as a demented person will not invalidate the Amended Information. In the first place, Urmaza did not raise any objection at all on the matter. More importantly, none of his rights was violated, particularly that of being informed of the nature and cause of the accusation against him.²⁸ The material facts necessary to establish the essential elements of rape were succinctly alleged, and the Amended Information by itself is sufficient to enable Urmaza to suitably prepare for his defense.

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.²⁹ In the case at bar, Urmaza never denied having carnal knowledge of AAA. Thus, the only matter to be resolved by this Court is whether appellant had carnal knowledge of AAA against her will using threats, force or intimidation; or that AAA was deprived of reason or otherwise unconscious, or was under 12 years of age or is demented.³⁰

In his appellant's brief, Urmaza impugns the finding that AAA was a mental retardate. He argues that retardation is belied by no less than AAA herself, considering that she was even able to prepare coffee for him; and that she was able to narrate her alleged ordeal with clarity of thought and precision.

Urmaza's suggestions fail to persuade.

The RTC and the CA both found that AAA was a mental retardate. Well-settled is the rule that findings of fact of the trial court, particularly when affirmed by the CA, are binding upon this Court.³¹ Besides, there is no cogent reason to disturb the conclusions reached by the tribunals *a quo* with respect to AAA's mental condition.

Both clinical and testimonial evidence were presented by the prosecution to prove that AAA was a mental retardate. The prosecution

²⁷ *People v. Caoile*, supra note 23 at 574-575.

²⁸ *Id.* at 575.

²⁹ *People v. Patentes*, 726 Phil. 590, 598 (2014).

³⁰ *Id.*

³¹ *Castillo v. CA*, 329 Phil. 150, 152 (1996).

presented the Psychiatric Evaluation Report made by Dr. Caoile whose qualification as an expert witness was admitted by the defense.³² Based on the psychological tests performed on AAA, she was found to be suffering from MENTAL RETARDATION, SEVERITY UNSPECIFIED. Such diagnosis was grounded on AAA's significant sub-average intellectual functioning and concurrent deficits or impairment in adaptive functioning, i.e., difficulty expressing what she likes, constant need to be supervised with regard to hygiene and basic household chores, and difficulty understanding or following simple instructions.

Dr. Caoile testified that:³³

PROSECUTOR OLIVA B. NUDO (*PROS. NUDO*) on direct examination:

Q: What were your findings?

A: On examination, interview and observation, the patient is suffering from mental retardation and as specified (*sic*),³⁴ madam.

Q: What do you mean by on examination, interview and observation, the patient is suffering from mental retardation and as specified (*sic*)?

A: Actually, there are three bases of mental retardation.

1.) Sub-average intellectual functioning meaning IQ below 70.

2.) There is an impairment in the patient adoptive functioning such as communication, safety health care, home living direction and the onset should be for age 18, so this case of [AAA] is considered suffering from mental retardation because of the impairment of the adoptive function, as we can see she could not do simple chores at home, she was supervised in sweeping the floor, washing the dishes or cooking which a person could already do at age 35;

3.) She does not know the importance of safety; she was abused for several times, this is a fourth incident, when asked what the accused did to her, she just smile and never answer; with regard to the communication she has difficulty (*sic*) communicating; she has difficulty of understanding simple instructions. So those are the impairment of simple communication. However, an IQ test was not done in this patient because she has a difficulty understanding simple question; however, even though there was no IQ test done still as we can say the patient still suffering from a mental retardation because of the impairment in adoptive functioning, madam.



³² TSN, 12 March 2012, p.3.

³³ Id. at 3-4.

³⁴ The Psychiatric Examination Report states "UNSPECIFIED."

In addition to the Psychiatric Report and Dr. Caoile's testimony, AAA's mental retardation was further substantiated by the testimony of Urmaza himself,³⁵ viz:

PROS. NUDO on cross-examination:

Q: You are related to the complainant?

A: Yes, madam, her father and my wife are siblings.

Q: And the father of the complainant is already dead?

A: Yes, madam.

Q: And even with the death of the complainant's father, you frequent the house of the complainant?

A: Yes, madam.

Q: So you know the complainant since her birth?

A: Yes, madam.

Q: You know that she is mentally challenged?

A: Yes, madam. (emphasis ours)

Q: Such that even at this age, she even thinks like a child?

A: Yes, madam.

Q: And you claimed that you have a relationship with AAA for quite sometime now?

A: Yes, madam.

Q: This, despite the fact that she is your niece and she is a mentally challenged? (sic)

A: Yes, madam.

From the foregoing, it is beyond cavil that the prosecution was able to prove AAA's mental retardation. 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 his victim, and the latter's mental retardation.³⁶

³⁵ TSN, 8 May 2013, pp. 5-6.

³⁶ *People v. Brion*, 717 Phil. 100, 109 (2013).

Urmaza does not deny having sexual congress with AAA in the morning of 7 September 2011. He, however, claims that the act was consensual as he has been in a relationship with AAA for quite sometime now.

Urmaza must be reminded that the sweetheart theory or sweetheart defense is an oft-abused justification that rashly derides the intelligence of this Court and sorely 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, mementos, and photographs. None of such were presented here by the defense.³⁷

That the sexual congress was against AAA's will is further shown by her testimony on cross-examination by Urmaza's counsel.³⁸

Atty. Ferrer:

Q: You said a while ago that Eleuterio Urmaza entered your house, is that correct?

A: Yes, sir.

Q: What did you do when he entered your house?

A: I asked him to leave because I will sleep but he refused and I waited for him to leave but he did not leave, sir.

Q: When he refused to leave, can you tell us what did you do next?

A: I was already angry and asked him to leave, sir.

Q: You said that Eleuterio Urmaza closed the door and the window of your house is that correct?

A: Yes, sir.

Q: Where were you when he closed the window of your house?

A: He closed the door and the window, sir.

Q: You said a while ago that he embraced you and touched your breast?

A: He embraced me, and I tried to push him away but he embraced me and he inserted his penis, sir.

Q: You said a while ago that when he was allegedly inserting his penis you were holding on to something, that your hand is holding something?

³⁷ *People v. Eco Yaba*, 742 Phil. 298, 306 (2014).

³⁸ TSN, 10 December 2012, pp. 6-7.



A: Yes, sir.

Q: Can you tell us what was that thing you were holding in your house?
(sic)

A: (Witness demonstrating a post and shaking post made of wood)

Q: With your both hands on that position, you were able to hit or push Eleuterio Urmaza on that point?

A: I kept on pushing him but he kept on touching me, sir.

It bears emphasis that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it was shown that they could communicate their ordeal capably and consistently. 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 suffered such crime at the hands of the accused.³⁹

Moreover, it has been repeatedly held that the RTC's assessment of the credibility of witnesses deserves great respect in the absence of any attendant grave abuse of discretion, since it has the advantage of actually examining the real and testimonial evidence, including the conduct of the witnesses, and is in the best position to rule on the matter. This rule finds greater application when the RTC's findings are sustained by the CA, as in this case.⁴⁰ Accordingly, the Court finds nary a reason to depart from the RTC's assessment of the testimony of AAA.

In sum, the prosecution has sufficiently established Urmaza's guilt beyond reasonable doubt. His conviction therefore stands.

While the Court affirms the RTC and the CA's ruling of conviction, it cannot, however, subscribe to the penalty imposed upon Urmaza lest it runs afoul with the tenets of due process. Indeed, knowledge of the offender of the victim's mental disability at the time of the commission of rape qualifies the crime and makes it punishable by death under Article 266-B, paragraph 10 of the RPC, as amended by Republic Act No. 8353.⁴¹ Nevertheless, it appears that the tribunals *a quo* lost sight of the precondition that 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

³⁹ *People v. Dela Paz*, 569 Phil. 684, 704 (2008).

⁴⁰ *People v. Brion*, supra note 36 at 113.

⁴¹ *People v. Dela Paz*, supra note 39 at 705.

indictment. A contrary ruling would result in denial of the right of the accused to be informed of the charges against him, and hence, a denial of due process.⁴²

Here, the offender's knowledge of the mental disability of the victim was not properly alleged. There was no averment in the Amended Information stating that Urmaza knew of AAA's mental retardation during the commission of the rape. While the erroneous designation of AAA as a demented person did not cause material and substantial harm to Urmaza, the same cannot be said of the prosecution's failure to recite the aforesaid qualifying circumstance. Sections 8 and 9 of Rule 110 of the Rules of Court require that the qualifying circumstances be specifically alleged in the Information to be appreciated as such. As elucidated in *People v. Tagud*,⁴³ the purpose is to alert the accused that his life hangs in the balance because a special circumstance would raise the crime to a higher category.⁴⁴

Lamentably, even if the prosecution was able to prove that Urmaza had knowledge of AAA's mental retardation, the Court is constrained to find him guilty of rape only in its simple form.

WHEREFORE, the Court **AFFIRMS** the assailed 27 February 2015 Decision of the CA with the **MODIFICATION** that appellant ELEUTERIO URMAZA y TORRES is pronounced **GUILTY** beyond reasonable doubt of **SIMPLE RAPE** and is sentenced to suffer the penalty of *reclusion perpetua*; and to pay the victim ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages; all such amounts to earn interest at the rate of six percent (6%) per annum from the finality of this decision until full payment.

SO ORDERED.



SAMUEL R. MARTIRES
Associate Justice

⁴² Id. at 705-706.

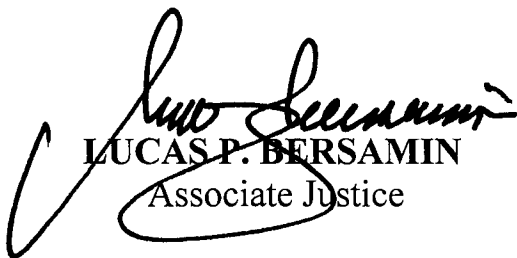
⁴³ 425 Phil. 928-950 (2002).

⁴⁴ Id. at 946-949.

WE CONCUR:



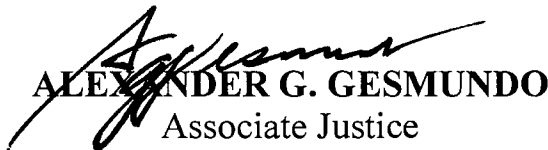
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



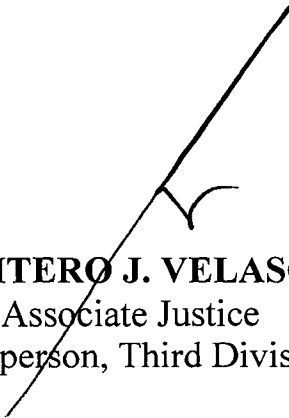
MARVIC M.V.F. LEONEN
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest 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.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.



ANTONIO T. CARPIO
Acting Chief Justice