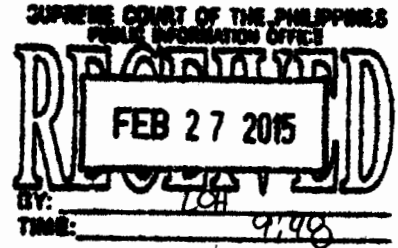




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated February 11, 2015, which reads as follows:

“G.R. No. 208843 (*People of the Philippines vs. Rolly Velasquez y Cobilla*). – This is an appeal from the Decision¹ dated May 22, 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04385 which affirmed the conviction of Rolly Velasquez y Cobilla (accused-appellant) for the crime of Rape.

An information² was filed against the accused-appellant charging him for the commission of rape against AAA,³ an intellectually disabled.⁴

During arraignment, the accused-appellant pleaded “not guilty”.

On pre-trial, the parties stipulated on AAA’s mental ailment; that she has an Intelligence Quotient of 41 though she was 43 years old; that she has a mental age of 17 years old and is positive for psychosis during the commission of the crime. Her mental retardation, schizophrenia, and psychosis, was medically certified by Dr. Imelda Escudra (Dr. Escudra), Medical Specialist II of the Bicol Medical Center in Naga City.⁵

Trial on the merits ensued.

The prosecution presented the testimonies of BBB, cousin of AAA, Chief Tanod Dante Boloy (Boloy) and Dr. Raoul Alcantara (Dr. Alcantara) while the defense presented the lone testimony of the accused-appellant.⁶

¹ Penned by Associate Justice Myra V. Garcia-Fernandez, with Associate Justices Normandie B. Pizarro and Stephen C. Cruz concurring; CA rollo, pp. 122-140.

² Id. at 54.

³ 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 initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

⁴ “Mental retardate” has been replaced with the term “intellectually disabled” based on 2013 Diagnostic and Statistical Manual of Mental Disorders, pp. 33 and 809; *People of the Philippines v. Enrique Quintos y Badilla*, G.R. No. 199402, November 12, 2014.

⁵ CA rollo, pp. 55-56.

⁶ Id. at 54-56.

Handwritten initials and a star symbol.

In the evening of September 28, 2005, at about 8:30 p.m., BBB was already asleep in their house in Camarines Sur with her three children and her cousin, AAA. She was suddenly awakened by one of her children who was crying complaining about being stepped on the stomach by someone. When BBB asked who it was, the accused-appellant identified himself to her. He kissed and tried to undress BBB as he poked a knife behind her. BBB, however, managed to dress up and run away. The accused-appellant chased her and offered her money as BBB hid herself among the grassy portion near her house for more than half an hour. The accused-appellant unknowingly stood in front of BBB as he lambasted her and threatened to kill her once he finds her. Despite her fear, BBB stayed quietly where she was. The accused-appellant went back to BBB's house where he saw AAA. He poked a knife at her neck, undressed her and had sexual intercourse with her. BBB saw him undress AAA as she peeped through the cabinet located by the door. The house was illuminated by the flicker of light coming from a battery charger as she witnessed the accused-appellant sexually ravage AAA through a push and pull motion. She entered the house and brought her children outside one by one through the window. The accused-appellant was busy having sexual intercourse with AAA when BBB ran to the *barangay* authorities to seek help. Boloy immediately went to the house of BBB with his brother-in-law. Boloy caught the accused-appellant still busy having sex with AAA with his pants off. The accused-appellant was held by the back of his collar and was ordered to stand up and wear his pants then he was handcuffed. Boloy brought him to the police station. BBB, however, stayed in the house and clothed the naked AAA, as the latter told her "*masiramón*" which means "it feels good". AAA was physically examined by Dr. Alcantara on October 4, 2005 who found her old laceration at 5 o'clock position.⁷

In defense, the accused-appellant interposed a denial and testified that on September 28, 2005, at about 7:00 p.m., he noticed a commotion when he passed by the house of BBB. He did not bother to find out what it was and continued on his way home. He was about to cross the river when he met Boloy. Boloy handcuffed him and asked him what he was doing there as it was late at night. The accused-appellant told Boloy that he was going home but Boloy brought him to the police station. He claims that Boloy told him that an information will be filed against him the following morning. He thereafter learned that he was criminally charged for raping AAA.⁸

⁷ Id.

⁸ Id. at 56.

Ruling of the Regional Trial Court

In a Judgment⁹ dated January 4, 2010, the Regional Trial Court (RTC) of San Jose, Camarines Sur, Branch 30, convicted the accused-appellant for the crime of Rape as defined and penalized under Article 266-A of the Revised Penal Code (RPC). He was sentenced to suffer the penalty of *reclusion perpetua* and was ordered to indemnify AAA in the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages plus costs of suit.¹⁰

The RTC ratiocinated that carnal knowledge of an intellectually disabled is rape which requires no proof of force or intimidation after it emphasized the fact of the accused-appellant's admission regarding AAA's psychological deficiency during his cross-examination.¹¹

The RTC accorded full weight and credence to the testimonies of BBB and Boloy who positively identified the accused-appellant as the one who sexually molested AAA. BBB testified that she has known the accused-appellant since birth and her categorical accusation against him in open court was considered far from a mere concoction. She described the act of the accused-appellant in this manner: "*Pinagkakayos nia po si Manay AAA* ([accused-appellant] was already having sexual intercourse with Manay AAA)."¹² Boloy corroborated BBB's statement as he testified that he responded to her call for help and had the accused-appellant arrested when he found him in a very uncompromising situation in BBB's house at the time of the incident.

The RTC disregarded the bare denial of the accused-appellant as it was unsupported by any clear and convincing evidence. It was stressed by the RTC that his argument regarding the period when rape was committed is inconsequential since only the elements of the crime of rape, as alleged and proved, are essential in order for his conviction to prosper.

Ruling of the CA

On appeal, the CA affirmed the conviction of the accused-appellant and the RTC's imposition of *reclusion perpetua*. The amounts of civil indemnity and moral damages awarded were, however, increased from ₱50,000.00 to ₱75,000.00 in line with prevailing jurisprudence.¹³

⁹ Issued by Presiding Judge Noel D. Paulite; id. at 54-57.

¹⁰ Id. at 57.

¹¹ Id. at 56.

¹² Id. at 132.

¹³ Id. at 139.

The CA clarified that the guilt of the accused, in the crime of rape committed in seclusion, can be proved not only through the testimony of the victim but also through the strong and positive testimonies of eyewitnesses, such as BBB and Boloy.¹⁴

On this point, the CA expounded on the importance of the testimony of an eyewitness which is vital and, in most cases, decisive of the failure or success of the prosecution. Accordingly, the CA accorded merit to the testimonies of BBB and Boloy for having satisfied the following elements of identification, such as: (1) witness' perception of the event occurring; (2) the witness must memorize the details of the event; and (3) the witness must be able to recall and communicate accurately. BBB's testimony recounted how the accused-appellant sexually molested AAA from the time he undressed the latter until he carried on with his bestial desire even after BBB has returned home with the *barangay* authorities. Boloy's statement, moreover, showed that he acceded to BBB's call for help and caught the accused-appellant in BBB's house naked from waist down while positioned on top of AAA. The poor victim was seen lying helplessly naked on the floor.¹⁵

The CA rejected the defenses of denial and *alibi* of the accused-appellant as there was no clear and convincing evidence adduced to substantiate it. The physical impossibility of being at the *locus criminis* when the incident happened was rendered futile because of his admission that he passed by the house of BBB at around 7:00 p.m. on September 28, 2005.¹⁶ With this in mind, the CA stressed that no family member would expose a relative regarding the crime of rape just to satisfy an alleged motive if the charge is untrue. Also, relationship with the victim does not necessarily make the testimony bias but instead makes it credible to vindicate the right of the relative-victim against the real culprit.¹⁷ Lastly, the lacerations found on AAA were considered as the best physical manifestation of her forcible defloration, whether it was healed or fresh, considering that the standard healing period depends on the health of the victim.¹⁸

Hence, this appeal.

Ruling of the Court

The conviction is affirmed.

¹⁴ Id. at 129.

¹⁵ Id. at 129-132, 135-136.

¹⁶ Id. at 133.

¹⁷ Id. at 135.

¹⁸ Id. at 136-137.

It is well-settled that “a trial court’s assessment of witness’ credibility, when affirmed by the CA, is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight or influence. This is so because of the judicial experience that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed firsthand their deportment and manner of testifying under grueling examination.”¹⁹

For conviction in the crime of rape of an intellectually disabled, the following elements must be proved beyond reasonable doubt, to wit: (1) that the accused had carnal knowledge of the victim; and (2) that the victim is deprived of reason, was unconscious or otherwise demented.²⁰ These elements were successfully established by the evidence of the prosecution.

The array of the prosecution evidence stresses the weakness of the accused-appellant’s defense of denial and *alibi*. There was sufficient evidence to establish the circumstance that the accused-appellant knew about AAA’s intellectual disability. Not only was it stipulated and agreed upon by the parties during pre-trial but was likewise medically certified by Dr. Escudra. The carnal knowledge of AAA, on the other hand, was vividly featured through the categorical and positive declarations of BBB and Boloy which pinpointed the accused-appellant as the perpetrator of the crime. The lacerations found on AAA when she was physically examined by Dr. Alcantara were aptly considered by the CA as the best evidence of her defloration, whether healed or fresh. Her healed lacerations supported the testimonies regarding her sexual molestation rather than destroyed it. It is often presented to show the loss of virginity especially when the testimonies given against the accused coincide with the fact that the victim was sexually taken advantaged of by the culprit.

Therefore, the denial and *alibi* of the accused-appellant cannot be considered to exonerate him from the crime. Regrettably, the defense failed to reverse the unwavering testimonies of the prosecution witnesses that the accused-appellant raped AAA. Absent proof to show that the prosecution witnesses were ill motivated, this Court finds their testimony worthy of utmost belief.

The Penalty and Proper Indemnity

The RPC, as amended, punishes the rape of an intellectually disabled person regardless of the perpetrator’s awareness of his victim’s mental condition. However, 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.²¹ Accordingly, the Court sustains the CA’s

¹⁹ *People v. Mirandilla, Jr.*, G.R. No. 186417, July 27, 2011, 654 SCRA 761, 771.

²⁰ REVISED PENAL CODE, Article 266-A.

²¹ *People v. Caoile*, G.R. No. 203041, June 5, 2013, 697 SCRA 638, 656

imposition of the penalty of *reclusion perpetua* pursuant to Article 266-B,²² in relation to Article 266-B(10),²³ of the RPC, as amended by Republic Act (R.A.) No. 8353²⁴ and Section 3²⁵ of R.A. No. 9346.²⁶

As to the damages awarded, civil indemnity is awarded upon finding of the fact of rape while moral damages is awarded upon such finding without need of further proof because it is assumed that a rape victim had actually suffered moral injuries entitling the victim to such award.²⁷ Thus, this Court affirms the CA's imposition of civil indemnity and moral damages in the amount of ₱75,000.00 each. Moreover, in line with prevailing jurisprudence, exemplary damages in the amount of ₱30,000.00 is additionally awarded based on Article 2229 of the Civil Code to set an example for the public good and to serve as deterrent to those who abuse the young.²⁸

An interest rate of six percent (6%) *per annum* is also imposed upon all damages awarded reckoned from the finality of this judgment until it is fully paid.²⁹

WHEREFORE, in consideration of the foregoing premises, the Decision dated May 22, 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 04385 is **AFFIRMED with MODIFICATION** that exemplary damages in the amount of ₱30,000.00 is also awarded. All damages awarded shall earn six percent (6%) interest *per annum* to be computed from the date of finality of this judgment until fully paid." (Jardeleza, J., no part in view of participation in the Office of the Solicitor General; Perez, J., designated additional member per Raffle dated October 27, 2014.)

²² **Article 266-B.** Penalty. - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

²³ The **death penalty** shall also be imposed if the crime of rape is committed with any of the following aggravating/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 the commission of the crime.

²⁴ 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. Approved on September 30, 1997.

²⁵ **Sec. 3.** Person convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. [4103], otherwise known as the Indeterminate Sentence Law, as amended.

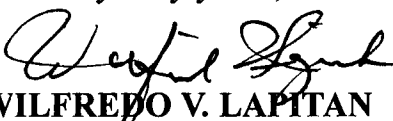
²⁶ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES. Approved on June 24, 2006.

²⁷ *People v. Castillo*, G.R. No. 186533, August 9, 2010, 627 SCRA 452, 475.

²⁸ *People v. Teodoro*, G.R. No. 175876, February 20, 2013, 691 SCRA 324, 345-346.

²⁹ *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 249.

Very truly yours,


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