



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 203086

Present:

- versus -

CARPIO, J., *Chairperson*,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

JOSE DALAN y PALDINGAN,
Appellant.

JUN 11 2014

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DECISION

BRION, J.:

We review the appeal, filed by appellant Jose Dalan, assailing the decision¹ of the Court of Appeals (CA) dated January 31, 2012 in CA-G.R. CR-HC No. 04279. The CA affirmed the Judgment² of the Regional Trial Court (RTC), Branch 64, Abatan, Buguias, Benguet, which found the appellant guilty beyond reasonable doubt of two counts of **statutory rape**.

In its Judgment dated December 3, 2009, the RTC convicted the appellant of two counts of statutory rape. It ruled that the prosecution was able to prove that the appellant inserted his penis in AAA's vagina on two occasions, namely, in December 2006 and on March 3, 2007. It added that AAA's testimony was corroborated by the medical findings of Dr. Sabrina Florendo. The RTC further explained that AAA's mental retardation cannot disqualify her as a witness, since she capably narrated the details of the sexual abuses committed against her by the appellant in 2006 and 2007.

¹ Rollo, pp. 2-20; penned by Court of Appeals Associate Justice Rosmari D. Carandang, and concurred in by Associate Justices Ricardo R. Rosario, and Danton Q. Bueser.

² CA rollo, pp. 42-52; penned by Judge Agapito K. Laoagan, Jr.

Accordingly, the RTC sentenced the appellant to suffer the penalty of *reclusion perpetua*, and to indemnify the victim the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages, both for each count of statutory rape.

On appeal, the CA affirmed the RTC decision. The CA ruled that AAA positively identified the appellant as the person who raped her on two occasions. According to the CA, AAA was consistent in her recollection of the details of the crime. It also added that AAA's moderate mental retardation was sufficiently established by the prosecution's evidence. Finally, the RTC found the appellant's uncorroborated denial and alibi to be unmeritorious.

Our Ruling

We **deny** the appeal, but modify the designation of the crime committed and the awarded indemnities.

For the charge of rape to prosper, the prosecution must prove that (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she was **deprived of reason** or otherwise unconscious, or when she was under 12 years of age or was demented.³ Carnal knowledge of a woman who is a mental retardate is rape under Article 266-A, paragraph 1(b) of the Revised Penal Code, as amended. Proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act. What need to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter.⁴

In the present case, the prosecution established the elements of rape under Article 266-A of the Revised Penal Code, as amended. *First*, AAA positively identified the appellant as the person who **inserted his penis in her vagina** in December 2006 and in March 2007; she never wavered in this identification. Significantly, AAA's claim of sexual intercourse had been corroborated by the medical findings and testimony of Dr. Florendo who testified that the marked attenuated hymen at 6 o'clock position was most probably caused by an erect penis, while the absent hymen at the 4, 5 and 7 o'clock positions could be caused by repeated sexual experience.

Second, the prosecution satisfactorily established the mental condition of the victim. Dr. Ekid conducted a battery of tests to determine the mental age, social maturity and emotional condition of AAA. During trial, Dr. Ekid explained each test, and how she arrived at her conclusions. Accordingly, she found AAA to be suffering from moderate retardation, with a mental age of a person four (4) years and seven (7) months old.

³ *People of the Philippines v. Hermenigildo Delen y Escobilla*, G.R. No. 194446, April 21, 2014.

⁴ *People v. Dela Paz*, G.R. No. 177294, February 19, 2008, 546 SCRA 363, 376.

As the lower courts did, we are unpersuaded by the appellant's alibi that he was at a farm in Ca-ew, Bulalacao, during the two rapes. Aside from being uncorroborated, we point out that Ca-ew was just five (5) minutes away from the scene of the rape. In short, the appellant miserably failed to show that it was physically impossible for him to be at the places where AAA had been sexually abused.

The Crime Committed

Article 266-A paragraph 1 of the Revised Penal Code, as amended, provides:

Article 266-A. *Rape, When and How Committed.* – Rape is committed –

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 is 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; x x x

In the present case, the Information alleged that the victim was “xxx a minor, being seventeen (17) years of age, or below eighteen (18) years old at the time of the commission of the crime, but mentally retarded with a mental age that equates to a child of four (4) years and seven (7) months,” and this circumstance had been proven during trial. The RTC, however, equated AAA's mental retardation with dementia. It is settled that carnal knowledge of a woman who is a mental retardate is rape as she is in the same class as a woman deprived of reason or otherwise unconscious.⁵ Our ruling in *People v. Monticalvo*⁶ on this point is instructive:

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**

⁵ *People v. Tablang*, G.R. No. 174859, October 30, 2009, 604 SCRA 757, 766.

⁶ See *People v. Monticalvo*, G.R. No. 193507, January 30, 2013, 689 SCRA 715, 731.

subparagraph (d) of Article 266-A(1) of the Revised Penal Code, as amended. [Emphasis in the original]

Aside from erroneously equating AAA's mental retardation with dementia, the RTC further justified its conviction of the appellant of statutory rape on account of the victim's mental age.

The gravamen of the offense of statutory rape, as provided for in Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended, is the carnal knowledge of a woman below 12 years old. To convict an accused of the crime of statutory rape, the prosecution must prove: first, the age of the complainant; second, the identity of the accused; and last but not the least, the carnal knowledge between the accused and the complainant.⁷

In the present case, it is not disputed that AAA was already 17 years old when she was raped. In *People v. Butiong*,⁸ we held that carnal knowledge of a female mental retardate *with the mental age below 12 years of age* is considered as rape of a woman deprived of reason, thus:

It should no longer be debatable that rape of a mental retardate falls under paragraph 1(b), of Article 266-A, x x x, because the provision refers to a rape of a female "deprived of reason," a phrase that refers to mental abnormality, deficiency or retardation.

We are not unaware that there have been cases⁹ where the Court stated that sexual intercourse with a mental retardate constitutes statutory rape. Nonetheless, the Court in these cases affirmed the accused's conviction for simple rape despite a finding that the victim was a mental retardate with a mental age of a person less than 12 years old.

Based on these discussions, we hold that the term statutory rape should only be confined to situations where the victim of rape is a person less than 12 years of age. If the victim of rape is a person with mental abnormality, deficiency, or retardation, the crime committed is simple rape under Article 266-A, paragraph (1)(b) as she is considered "deprived of reason" *notwithstanding that her mental age is equivalent to that of a person under 12*. In short, carnal knowledge with a mental retardate whose mental age is that of a person below 12 years, while *akin* to statutory rape under Article 266-A, paragraph 1(d), should still be designated as simple rape under paragraph 1(b). At any rate, proof of force, threat or intimidation is dispensed with in both statutory rape and rape with a person who is deprived of reason.

⁷ *People v. Balunsat*, G.R. No. 176743, July 28, 2010, 626 SCRA 77, 91.

⁸ G.R. No. 168932, October 19, 2011, 659 SCRA 557, 571 and 573.

⁹ See *People v. Alipio*, G.R. No. 185285, October 5, 2009, 603 SCRA 40; *People v. Arlee*, G.R. No. 113518, January 25, 2000, 323 SCRA 201; *People v. Andaya*, 365 Phil. 654 (1999).

With respect to the awarded indemnities, we further direct the appellant to pay the victim ₱30,000.00 as exemplary damages to set a public example and to protect hapless individuals from sexual molestation. We also impose a 6% interest on all the monetary awards for damages to be reckoned from the date of finality of this decision until fully paid.¹⁰

WHEREFORE, in light of all the foregoing, the CA decision dated January 31, 2012 in CA-G.R. CR-HC No. 04279 is **AFFIRMED** with the following **MODIFICATIONS**:

- (a) the appellant is found guilty of simple rape under Article 266-A(1)(b) of the Revised Penal Code, as amended;
- (b) he is further ordered to pay AAA ₱30,000.00 as exemplary damages; and
- (c) he is ordered to pay interest, at the rate of 6% per annum on the award of civil indemnity, moral damages, and exemplary damages from finality of judgment until fully paid.

SO ORDERED.



ARTURO D. BRION
Associate Justice

WE CONCUR:



ANTONIO T. CAPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

¹⁰

People v. Manicat, G.R. No. 205413, December 2, 2013.

A T T E S T A T I O N

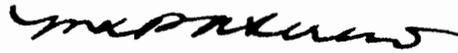
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

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.



MARIA LOURDES P. A. SERENO
Chief Justice