

SECOND DIVISION

[G.R. No. 224595, September 18, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GGG,
ACCUSED-APPELLANT.**

RESOLUTION

CARPIO, ACTING C.J.:

The Case

This is an appeal from the 27 January 2016 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01221-MIN, which affirmed with modification the Judgment^[2] dated 27 November 2012 of the Regional Trial Court (trial court), Branch 6, Dipolog City, convicting accused-appellant GGG^[3] (appellant) of rape under Article 266-A of the Revised Penal Code (RPC).

The Facts

The Information charging appellant of the crime of rape reads:

That on March 1, 2005 at about 5:00 o'clock in the morning at XXX, Dapitan City, Philippines, and within the- jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA, without her consent and against her will.

CONTRARY TO LAW, with the aggravating circumstance of accused's knowledge that the victim is mentally retarded.^[4]

The prosecution presented five witnesses: (1) BBB, the mother of AAA; (2) CCC, the brother of AAA; (3) SPO4 Ronnie Quizo, the arresting officer; (4) Dr. Rolito Cataluna; and (5) Dr. Zita Adaza.

CCC, the 14-year-old brother of AAA, testified that on 28 February 2005, a party was held at their house in Dapitan City for the birthday of his brother EEE's daughter. Among those who attended the party was appellant. After dinner, he and his sister AAA slept in one of the bedrooms, which was visible from the sala where EEE and his guests, including appellant were still drinking Tanduay Rhum. The following morning, at 5:00 a.m., on 1 March 2005, CCC was awakened when he felt the floor shake. CCC saw a man on top of AAA having sexual intercourse with her. AAA was gasping for breath and moaning in pain. When CCC switched on the light in the room, he saw appellant, who was only wearing a big t-shirt but no pants, about to leave the room. Appellant asked CCC for some salt and CCC told him to get some in the kitchen. CCC was scared because appellant just raped his sister. In the afternoon, CCC went to Zamboanga to report the rape incident to his mother BBB.

BBB testified that she is the mother of AAA, who is mute and has very low comprehension level. On 1 March 2005, she was in the house of her mother in Piñan, Zamboanga del Norte. At around 6:00 p.m., her son CCC arrived and told her that AAA was raped by appellant, who is her fourth degree cousin and neighbor. The following day, BBB left for Dapitan and brought AAA to the DSWD, where they were referred to a policeman who investigated them. Thereafter, they proceeded to the City Health Office where AAA was examined. After the examination, they went back to the police station to request the arrest of appellant.

Dr. Rolito Cataluna testified that the City Health Officer who examined AAA and signed the medical certificate had already gone to the United States of America. Dr. Cataluna then explained that the medical certificate states that AAA had lacerations in the vaginal canal which may be caused by biking, or an inserted penis, among others. He added that the result of the urinalysis conducted on AAA indicated the presence of spermatozoa in her vagina.

SPO4 Ronnie Quizo testified that on 2 March 2005, BBB came to the police station to report that her daughter AAA was raped by appellant. SPO4 Quizo and his fellow police officers then arrested appellant and brought him to the police station for investigation.

Dr. Zita Adaza testified that on 30 August 2006, she examined AAA and found her: (1) mentally retarded and mute; (2) totally dependent on her mother; (3) has cardiovascular problem; (4) has a very low mental classification; and (5) has a profound level of 5 which is the lowest level. Dr. Adaza concluded that AAA, whose mental condition is congenital, has complete lack of intellect.

On the other hand, the defense presented two witnesses: appellant and Eneria Tobio^[5] (Eneria), the wife of appellant's cousin. Appellant alleged that in the evening of 28 February 2005, he attended the birthday party of EEE's daughter at AAA's house. The party ended at around 10:00 p.m. and he left the party with Eneria, EEE and his friends. At around 12:00 midnight, he slept in the sala of Eneria's house and woke up the following day at 10:00 a.m. Appellant admitted that he went to AAA's house to ask for salt from CCC, but he was there in the evening of 28 February 2005 and not on 1 March 2005. On cross-examination, appellant stated that Eneria's house is very near AAA's house which is only 150 meters away. Appellant admitted that he knew AAA was mute and mentally retarded.

Eneria testified that on 28 February 2005, she and appellant were at the birthday party of EEE's daughter. At around 10:00 p.m., she, her children and appellant left the party and went home to her house to sleep. Eneria testified that appellant slept in her house and that he could not have raped AAA because he stayed in her house the whole night and only left the following day.

The Ruling of the Trial Court

On 27 November 2012, the trial court rendered the Judgment convicting appellant of the crime of rape under Article 266-A of the RPC:

WHEREFORE, judgment is hereby rendered finding accused [GGG] guilty beyond reasonable doubt of the crime of rape committed against AAA. Consequently, he is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is further ordered to pay the private complainant the

amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

With costs against the accused.

SO ORDERED.^[6]

The trial court found appellant guilty of raping AAA who is mute, mentally retarded, and incapable of giving consent. Although AAA was already 21 years old at the time of the incident, she has a "level 5" mental capacity which is the lowest mental classification. The evidence showed that the mental capacity of AAA is equivalent to an IQ of below 20 which is similar to that of an average 2-year-old child. Appellant was positively identified by CCC as the rapist, and the medical findings were consistent with the charge of rape. The trial court held that CCC's categorical and positive identification of appellant as the rapist of AAA prevails over the alibi and denial by appellant, especially since appellant has not imputed any bad faith or ill-motive on the part of AAA, BBB, or CCC. Furthermore, the trial court held that it was not impossible for appellant to be at the crime scene considering that Eneria's house, where he slept the night before the incident was only 150 meters away from AAA's house. The trial court held that "Article 266-B, in relation to Article 266-A of the [RPC], as amended, provides the penalty of *reclusion perpetua* for the carnal knowledge of a woman who is under 12 years old, as in this case, a woman who is a mental retardate which the accused knew."^[7]

The Ruling of the Court of Appeals

On appeal, the CA affirmed the trial court's decision with modification. The CA upheld the trial court's finding that appellant had carnal knowledge of AAA, who was proven to be a mental retardate. The CA held that appellant's denial and alibi are weak and cannot prevail over the positive identification of him as the rapist. Besides, considering that AAA's house is only 150 meters away from Eneria's house where appellant stayed, it was not impossible for appellant to go to AAA's house on the date and time of the rape incident. Under Article 266-B of the RPC, death penalty is imposed if the offender knew of the mental disability of the victim, as in this case. But since death penalty has been abolished by Republic Act No. 9346, the CA sentenced appellant to suffer the penalty of *reclusion perpetua* without eligibility for parole instead of death penalty. The CA also increased the civil indemnity and moral damages to P75,000 each and the exemplary damages to P30,000. Furthermore, the CA ruled that the damages awarded should earn interest at the rate of 6% *per annum* from the date of finality of the decision until fully paid.

The dispositive portion of the CA Decision dated 27 January 2016 states:

WHEREFORE, the appeal is hereby DENIED. The Judgment dated 27 November 2012 of the Regional Trial Court, Branch 6, Dipolog City is hereby AFFIRMED with MODIFICATION. Accused-Appellant GGG is GUILTY beyond reasonable doubt of the crime of RAPE and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole.

Accused-Appellant GGG is also ordered to pay AAA the amount of Php 75,000.00 as civil indemnity *ex delicto*, Php 75,000.00 as moral damages and Php 30,000.00 as exemplary damages. The award of damages shall earn legal interest at the rate of six percent (6%) from the finality of this judgment until fully paid.