

SECOND DIVISION

[G.R. No. 212201, June 28, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO DENIEGA Y ESPINOSA, ACCUSED-APPELLANT.**

D E C I S I O N

PERALTA, ** J.:

Before the Court is an ordinary appeal filed by accused-appellant Rodolfo Deniega y Espinosa assailing the Decision^[1] of the Court of Appeals (CA), dated September 27, 2013, in CA-G.R. CR-H.C. No. 05348, which affirmed *in toto* the November 15, 2011 Decision^[2] of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 31, in Criminal Case No. 6185-SPL, finding accused-appellant guilty of the crime of statutory rape and imposing upon him the penalty of *reclusion perpetua* without eligibility for parole and ordering him to pay the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

The antecedents are as follows:

AAA^[3] was a young lass suffering from mental retardation. Around 7 o'clock in the evening of May 2, 2007, AAA who, was then sixteen years old^[4] but with a mental capacity of a six (6)-year-old child, went out of their house with some neighbors to watch a basketball game in a nearby basketball court. Upon returning home at approximately 11 o'clock in the evening of the same date, BBB, AAA's mother noticed that the latter's pants were wet. When BBB asked AAA what caused the wetting of her pants, the latter simply dismissed her mother's query and said that it was nothing (*wala lang*). Prompted by suspicion, BBB asked AAA to remove her pants, thereupon, she smelled her underwear which emitted the scent of semen. When quizzed by her mother, AAA eventually admitted that herein accused-appellant, whom she calls Dodong, and who was known to them as a delivery boy in their neighborhood, invited her to go to another basketball court where they could talk with each other but, instead, upon arriving at the said place, he undressed her and made her lie down. Upon acquiring such information, BBB put AAA's underwear in a plastic bag and immediately reported the incident to the *barangay* authorities. AAA later revealed that, at the said basketball court, accused-appellant undressed her, made her lie down, removed his pants and underwear, went on top of her, inserted his penis in her vagina and made "up-and-down" movements." The *barangay* authorities, with the help of some police officers, then proceeded to arrest accused-appellant who was then found in a neighbor's house. At the time of his apprehension, accused-appellant was very drunk. Thus, the authorities waited until the next morning for him to become sober before interrogating him. Upon questioning by the authorities, accused-appellant admitted in front of his employer and BBB that he had sex with AAA and that he loves AAA and he offered to marry her. He also requested BBB and the *barangay* authorities not to file a case against

him. BBB, however, refused accused-appellant's offer and request. Instead, she brought AAA to a doctor in Camp Vicente Lim in Calamba, Laguna for medical examination. Subsequently, a criminal complaint for rape was filed against accused-appellant.^[5]

In an Amended Information dated July 9, 2007, accused was charged with the crime of statutory rape before the RTC of San Pedro, Laguna, as follows:

The undersigned Assistant Provincial Prosecutor of Laguna accuses Rodolfo Deniega @ "DONG" of the crime of Statutory Rape in relation to Republic Act No. 7610, as follows:

That on or about May 2, 2007, in the Municipality of San Pedro, Province of Laguna, Philippines, within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully and feloniously, have carnal knowledge with a minor (16 years old) [AAA], whose mental age is only six (6) years old. Said carnal knowledge with the said [AAA] is detrimental to her normal growth and development.

That accused knew fully well that the said [AAA] is suffering from mental disability and/or disorder.

CONTRARY TO LAW.^[6]

Accused-appellant was arraigned on August 14, 2007 where he pleaded not guilty.^[7]

In his defense, accused-appellant denied the allegations of the prosecution and also raised the defense of alibi. He contended that between the hours of 8 o'clock in the morning and 12 o'clock midnight of May 2, 2007, he busied himself by painting the house of a neighbor, then he went to GMA Cavite to have his electric fan repaired and, subsequently, had a drinking session with his friend at the latter's house. He also admitted that he and the victim were residing at the same place and, at the time of the incident, he has known the victim for one month.

Pre-trial was conducted on September 12, 2007.^[8] Thereafter, trial ensued.

On November 15, 2011, the RTC rendered its Decision finding accused-appellant guilty as charged, the dispositive portion of which reads as follows:

WHEREFORE, the court finds the accused Rodolfo Deniega y Espinosa GUILTY beyond reasonable doubt of statutory rape and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole.

The accused is ordered to pay the victim the following sums: P75,000.00 as civil indemnity; P75,000.00 as moral damages; and P30,000.00 as exemplary damage.

SO ORDERED.^[9]

The RTC held that the prosecution was able to establish through clinical and testimonial evidence that AAA is suffering from moderate mental retardation, with an IQ of 43 and with a mental age of a six-year-old child. The trial court also noted that, as admitted by accused-appellant, he knew of the condition of the victim. The RTC ruled that the prosecution was able to prove beyond reasonable doubt that accused-appellant had sexual intercourse with the victim. The RTC gave full credence to the testimony of AAA holding that she testified on the rape that happened to her in a straightforward and categorical manner. The trial court did not give weight to accused-appellant's defense of alibi because the place where he claims to be at the time of the rape is just three streets away from the scene of the crime, hence, it is not physically impossible for him to be at the said scene at the time of the commission of the rape. The RTC also noted that accused-appellant failed to account for his whereabouts between 8 o'clock and 10 o'clock in the evening of May 2, 2007, which is the approximate time that AAA was raped. The RTC further held that AAA positively identified accused-appellant as the one who raped her.

Accused-appellant appealed the RTC Decision with the CA.^[10]

On September 27, 2013, the CA promulgated its assailed Decision affirming the judgment of the RTC *in toto*.

The CA held, among others, that: the observation of the trial judge, coupled with the evidence of the prosecution, confirms the mental retardation of the victim; AAA's narration of the rape incident is consistent; and accused-appellant's denial is unsubstantiated, thus, cannot overcome the categorical testimony of the victim.

On October 10, 2013, accused-appellant, through counsel, filed a Notice of Appeal^[11] manifesting his intention to appeal the CA Decision to this Court.

In its Resolution^[12] dated October 30, 2013, the CA gave due course to accused-appellant's Notice of Appeal and directed its Judicial Records Division to elevate the records of the case to this Court.

Hence, this appeal was instituted.

In a Resolution^[13] dated July 7, 2014, this Court, among others, notified the parties that they may file their respective supplemental briefs, if they so desire.

In its Manifestation and Motion^[14] dated September 4, 2014, the Office of the Solicitor General (*OSG*) prayed that it be excused from filing a supplemental brief because it had already adequately addressed in its brief filed before the CA all the issues and arguments raised by accused-appellant in his brief.

In the same manner, accused-appellant filed a Manifestation^[15] (in Lieu of Supplemental Brief) dated September 10, 2014, indicating that he no longer intends to file a supplemental brief and is adopting his brief, which was filed with the CA, as his supplemental brief had adequately discussed all the matters pertinent to his defense.

In his Brief, accused-appellant contends that he was wrongly convicted because the

prosecution failed to prove his guilt beyond reasonable doubt. He questions the credibility of the victim and insists that the trial court erred in not giving due consideration to his defense of alibi.

The appeal lacks merit. The Court finds no cogent reason to reverse accused-appellant's conviction.

Accused-appellant was charged with statutory rape under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC), as amended by Republic Act No. 8353^[16] (RA 8353), in relation to Republic Act No. 7610^[17] (RA 7610).

The pertinent provisions of Articles 266-A of the RPC, as amended, provide:

Art. 266-A Rape; When And How 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 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

Statutory rape is committed when: (1) the offended party is under twelve years of age; and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority.^[18] It is enough that the age of the victim is proven and that there was sexual intercourse.^[19]

This Court has consistently held that rape under Article 266-A(1)(d) of the Revised Penal Code, as amended, is termed statutory rape as it departs from the usual modes of committing rape.^[20] What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old.^[21] Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place.^[22] The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil.^[23]

It is also a settled rule that sexual intercourse with a woman who is a mental retardate, with a mental age below 12 years old, constitutes statutory rape.^[24] In

People v. Quintos,^[25] this Court held that if a mentally-retarded or intellectually-disabled person whose mental age is less than 12 years is raped, the rape is considered committed under paragraph 1(d) and not paragraph 1(b), Article 266-A of the RPC. In holding as such, this Court differentiated the term "mentally-retarded" or "intellectually disabled" from the terms "deprived of reason" and "demented" as used under Article 266-A, paragraphs 1(b) and 1(d) of the RPC. The Court ruled that:

x x x x

The term, "deprived of reason," is associated with insanity or madness. A person deprived of reason has mental abnormalities that affect his or her reasoning and perception of reality and, therefore, his or her capacity to resist, make decisions, and give consent.

The term, "demented," refers to a person who suffers from a mental condition called dementia. Dementia refers to the deterioration or loss of mental functions such as memory, learning, speaking, and social condition, which impairs one's independence in everyday activities.

We are aware that the terms, "mental retardation" or "intellectual disability," had been classified under "deprived of reason." The terms, "deprived of reason" and "demented", however, should be differentiated from the term, "mentally retarded" or "intellectually disabled." An intellectually disabled person is not necessarily deprived of reason or demented. This court had even ruled that they may be credible witnesses. However, his or her maturity is not there despite the physical age. He or she is deficient in general mental abilities and has an impaired conceptual, social, and practical functioning relative to his or her age, gender, and peers. Because of such impairment, he or she does not meet the "socio-cultural standards of personal independence and social responsibility."

Thus, a person with a chronological age of 7 years and a normal mental age is as capable of making decisions and giving consent as a person with a chronological age of 35 and a mental age of 7. Both are considered incapable of giving rational consent because both are not yet considered to have reached the level of maturity that gives them the capability to make rational decisions, especially on matters involving sexuality. Decision-making is a function of the mind. **Hence, 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.**

x x x^[26]