

## FIRST DIVISION

[ G.R. No. 205230, March 12, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ERNESTO VENTURA, SR., ACCUSED-APPELLANT.**

### R E S O L U T I O N

**REYES, J.:**

Accused-appellant Ernesto Ventura, Sr. (Ventura) challenges in this appeal the Decision<sup>[1]</sup> dated April 13, 2012 promulgated by the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04133, which affirmed with modification the judgment<sup>[2]</sup> of conviction for Rape rendered against him on May 27, 2009 by the Regional Trial Court (RTC) of Parañaque City, Branch 194, in Criminal Case No. 05-0366.<sup>[3]</sup>

Through the testimonies of the victim herself (AAA),<sup>[4]</sup> her aunt BBB,<sup>[5]</sup> *Barangay Tanod* Ronaldo Antiporda (Antiporda),<sup>[6]</sup> and the medico legal officer,<sup>[7]</sup> the prosecution's case was summarized as follows:

On March 24, 2005, at about 2:00 a.m., BBB had just come from a wake and was passing by the bakery of Ventura's son when she saw Ventura, naked from waist down, on top of a woman on a bench in front of the bakery. BBB coughed to get their attention and Ventura immediately stood up, put on his pants and entered his house. BBB then realized that the woman was her niece, AAA, who was then only 17 years old, unschooled and has a mental disability. She then held AAA's hands and brought her home. Thereafter, BBB confronted AAA who confessed that she was already impregnated by Ventura and admitted that the latter was sexually abusing her. Upon learning this, BBB sought help from the employer of AAA's sister who accompanied them to the Criminal Investigation and Detection Group (CIDG) to file a complaint<sup>[8]</sup> against Ventura.<sup>[9]</sup>

Thereafter, the members of the CIDG went to AAA's *barangay* hall, and Antiporda was one of the *barangay tanods* who was tasked to escort them to the residence of Ventura. Antiporda testified that upon arriving at Ventura's house, he informed Ventura of the complaint against him and invited the latter to the *barangay* hall. Ventura, with his wife, voluntarily went with them. At the *barangay* hall, the wife of Ventura approached AAA and asked her for forgiveness.<sup>[10]</sup>

AAA narrated that she was near the bakery of Ventura's son when Ventura asked her to lie down on the bench. Ventura undressed her, went on top of her, and inserted his penis inside her vagina. After succeeding in having carnal knowledge of her, Ventura threatened AAA by poking a knife at her while instructing her not to tell anyone about the incident.<sup>[11]</sup> She was then forced by Ventura to accompany him in selling *pandesal* until the early morning, and she could not escape him because he was holding her hands and would not let her go.<sup>[12]</sup> AAA said that Ventura would

give her clothes and money every time he would rape her and instructed her not to tell anyone of the sexual assaults.<sup>[13]</sup>

The Medico Legal Officer of the Philippine National Police Crime Laboratory testified that based on his interview with AAA, he found out that AAA was mentally deficient.<sup>[14]</sup> His initial and final medico legal report revealed that AAA was already pregnant and that there was definite evidence of abuse or sexual contact.<sup>[15]</sup>

For his part, Ventura<sup>[16]</sup> denied the charge against him and invoked the defense of *alibi* alleging that he did not rape AAA on March 24, 2005 as he did not leave his home because he was busy making bread for their bakery with his children, and it was already 10:00 a.m. when he was able to leave their bakery. He also admitted having knowledge that AAA has a mental defect.<sup>[17]</sup>

After trial, the RTC rendered judgment<sup>[18]</sup> on May 27, 2009, convicting Ventura of the crime charged and sentenced him to suffer the penalty of *reclusion perpetua*, and ordered him to pay AAA by way of damages the amount of P100,000.00. The trial court viewed the findings of the medico legal officer that AAA was already pregnant at the time of her physical and medical examination as clear proof and manifestation that she is a victim of rape, particularly in her case who was then only 17 years old, mentally deficient, illiterate, unschooled, and thus, incapable of giving rational consent to any lascivious act or sexual intercourse. The trial court also noted that Ventura failed to present any defense as to the explicit testimony of AAA that she was also sexually abused by him on other occasions since the only denial he interposed was against the consummated rape done on March 24, 2005.

On appeal, the CA affirmed the decision of the trial court with modification as to the award of damages. The CA ordered Ventura to pay the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.<sup>[19]</sup> Ventura then appealed his conviction to this Court.<sup>[20]</sup>

### **The Issue**

Whether the guilt of Ventura for the crime charged has been proven beyond reasonable doubt.

### **The Court's Rulings**

The appeal lacks merit.

In the Information<sup>[21]</sup> filed before the RTC on March 31, 2005, Ventura was charged with rape of a demented person under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC), to wit:

That on or about the 24<sup>th</sup> day of March 2005, in the City of Para[ñ]aque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, having moral ascendancy, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of victim [AAA], 17[-]year old minor, **a demented**

**person** and with mental capacity below 18 years old, against her will and without her consent, **the accused knowing the victim's mental disability at the time of the commission of the crime**, which acts are demeaning to the demented minor.<sup>[22]</sup> (Emphasis ours)

Article 266-A, paragraph 1<sup>[23]</sup> of the RPC, as amended, provides for two circumstances when having carnal knowledge of a woman with a mental disability is considered rape, to wit: paragraph 1(b) – when the offended party is deprived of reason; and paragraph 1(d) – when the offended party is demented.

Under paragraph 1(d), the term *demented* refers 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. On the other hand, under paragraph 1(b), the phrase *deprived of reason* has been interpreted to include those suffering from mental abnormality, deficiency, or retardation.<sup>[24]</sup> Since AAA is mentally deficient, she should properly be classified as a person who is "deprived of reason," and not one who is "demented." Hence, carnal knowledge of a mentally deficient individual is rape under subparagraph b and not subparagraph d of Article 266-A(1) of the RPC, as amended.<sup>[25]</sup> Nevertheless, the erroneous reference to paragraph 1(d) in the Information will not exonerate Ventura because he failed to raise this as an objection, and the particular facts stated in the Information were protestation sufficient to inform him of the nature of the charge against him.

From the foregoing, all that needs to be proven are the facts of sexual congress between the rapist and his victim, and the latter's mental retardation.<sup>[26]</sup> This Court has repeatedly held that "mental retardation can be proven by evidence other than medical/clinical evidence, such as the testimony of witnesses and even the observation by the trial court."<sup>[27]</sup> The trial judge's assessment of the credibility of witnesses' testimonies is accorded great respect on appeal in the absence of grave abuse of discretion on its part, it having had the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses.<sup>[28]</sup> The rule finds an even more stringent application where the said findings are sustained by the appellate court.

In the present case, the prosecution was able to establish that AAA is, indeed, a mental retardate through the testimony of BBB and the medico legal officer, and the trial court's observation. It is also worthy to note that the defense did not dispute but even admitted the fact that AAA is suffering from mental retardation. Though AAA proceeded with much difficulty in describing the sexual abuse made on her, no convincing reason can be appreciated to warrant a departure from the findings of the trial court with respect to the assessment of her testimony, the same being straightforward, candid, and worthy of belief. This Court is also convinced that AAA has no ill-motive to manufacture such a tale if it were not true.

In impugning AAA's accusation of rape against him, Ventura interposed the defense of denial and *alibi*. As can be gleaned from the records of this case, Ventura's argument centered only on the fact that it was impossible for him to rape AAA on the said date and time of the incident because he was busy making bread at their bakery, and the only time he left their house was at 10:00 a.m. Even assuming that