

THIRD DIVISION

[G.R. No. 136591, July 11, 2002]

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

D E C I S I O N

PUNO, J.:

Accused-appellant Federico Orbita y Retumba was charged with the crime of Rape in an Information which reads, thus:

“That on or about April 14, 1995, in the Municipality of Biñan, Province of Laguna, and within the jurisdiction of this Honorable Court, accused Federico Orbita y Retumba, with lewd design and by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge of said Marijoy Sumapang y Tijano, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.”^[1]

On July 19, 1995, appellant Orbita pleaded "not guilty" to the crime charged.^[2] Prior to the initial presentation of prosecution evidence or on October 17, 1995, appellant escaped from the Laguna Provincial Jail. He was recaptured on January 11, 1996 in Purok San Francisco, Barangay Red V, Lucena City.^[3] His trial was resumed.

The evidence shows that at about 5:00 P.M. of April 14, 1995, Mayla Belasa learned from her neighbors that Mary Joy was missing. Mayla and her sister boarded their sidecar to look for her.^[4] When they passed by the house of the accused, Mayla saw at its doorstep a pair of shoes similar to the one used by Mary Joy. They went home and Mayla told her neighbor whom she fondly calls Nanay Belen about the shoes. Nanay Belen immediately repaired to the house of the accused where she found a red-faced Mary Joy and brought her home.^[5]

Meanwhile, the neighbors fetched Mary Joy's mother, Lourdes, from the church. Nanay Belen told her that Mary Joy was brought by the accused to his house. Mary Joy was crying inside her bedroom, lying face down. Upon Lourdes' inquiry, Mary Joy revealed that the accused covered her mouth so she could not shout and then inserted his organ inside her private part. She complained of pain in her private part. There were bloodstains on her underwear.^[6]

Lourdes went to Jojo Castillo, ex-President of the Homeowners Association of Adeline III, Biñan, Laguna who accompanied her to the house of the accused. Lourdes' sister-in-law confronted the accused who admitted that he did something wrong to Mary Joy. However, he said the wrong was not consummated. The accused was brought to the Biñan Police Station where he was investigated by SPO1 Bertito Almenanza. The statements of the victim and the witnesses were taken.^[7]

On April 15, 1995, Mary Joy was examined by Dr. Rolando Poblete, then Municipal Health Officer of Sta. Rosa, Laguna. His examination yielded the following results:

"MENTAL STATUS:

Patient has a mental age of (10) TEN years old.

MEDICO-GENITAL EXAM:

GENITALIA - normal external genitalia; with very slight bleeding (droplet) coming from the vaginal os; I.E. - laceration (hymenal) at 6 o'clock and also at the right perihymenal area; admits 2 fingers snugly; cervix - close, hard, no bleeding nor tenderness noted; uterus is small.

LMP - 3rd week March 1995.

Impression: There is an evidence of vaginal penetration."^[8]

Mary Joy was likewise examined by Dr. Diane Dijamco, resident physician of the National Center for Mental Health (NCMH). A mental status examination was conducted by Dr. Dijamco on the patient while the psychological examination was conducted and evaluated by a psychologist.^[9] The results of the two (2) examinations were then correlated by Dr. Dijamco as embodied in the Medical Certificate^[10] dated November 14, 1995, the pertinent portions of which state, viz.:

"BRIEF BACKGROUND HISTORY:

Patient is the 5th of (7) siblings born to a retired OCW father and a plain housewife mother. She had apparently normal growth and development until she developed Benign Febrile convulsions which lasted until age 3. Consultations were made and she had several hospitalizations. When she started schooling, she was noted to be a slow learner. She only reached grade III after which she just (*sic*) stay home occasionally helping out with the chores.

Owing to observed "childish" behavior, a private physician was seen in 1991, was then recommended confinement, with home medications of Chlorpromazine, Depresil and AS-trivon, which were basically given in (*sic*) an irregular basis, or in events when patient would start Headbanging and she was just tolerated at home. She would only associate outside of the home during church services.

MENTAL STATUS EXAMINATIONS:

Patient was seen and examined on (*sic*) (3) separate dates October 16, and November 7, 1995.

Patient's a young adult female, sthenic, short-statured and with shaggy-styled, shoulder-length hair. She was seemingly behaved, cooperative to queries, had to be prodded every now and then. She's unable to recall date and failed to explain why she was brought here.

Patient related only a limited account of self, abling to identify her companion, added that she helps out at home with chores. She claimed to unimpaired sleep and appetite. Denied any perceptual disturbances as well as morbid ideations. Mood's euthymic, affect adequate.

On further interview, she had difficulty comprehending cognitive function testing. When asked about head banging episodes, she affirmed to this and claimed to an irrelevant explanation.

As to case filed, she attested to knowing the accused, but failed to narrate any specifics – 'kaibigan ko lang yon.'

Test judgment was poor, with an insight into illness.

PSYCHOLOGICAL EXAMINATION:

Subject's mental functioning is roughly estimated to be within the Mentally Retarded level Mild category; with a mental age of 9 years and 3 months.

Other tests production likewise show that she is an individual whose intelligence belong to the mentally retarded level. Poor judgment and reasoning power are noted. Generalized feelings of inadequacy and insecurity are shown; although she was able to identify with her own sex, she showed along heterosexual relationships is encountered. Some negativistic trends are also noted which also brought about her difficulty in interpreting relationships. Marked feelings of hostility is reflected. She has very shallow and affectless contact with her environment.

Her ego functions are weak.

x x x x x x x x x

REMARKS AND RECOMMENDATIONS:

Based on the history, physical, neurological, psychological and mental status examinations, patient was assessed to be suffering from a mild form of mental retardation, with a mental age of (9) years and (3) months.

Her condition could be attributed to a history of repeated seizures in childhood, resulting to the irreversible condition.

As far as functioning is concerned, she's only able to achieve minimal social and occupational skills which enables her to do simple household tasks, with supervision.

In terms of academic performance, she's not expected to perform beyond Grade VI course in level."^[11]

Accused interposed the defense of denial. On the date and time of the incident, he claims that he was cooking for dinner at his house with his relatives Jeffrey de Leon and Jun Eugenio. At about 8:00 o'clock in the evening, a group of women knocked on his door and asked who among them raped Mary Joy. He denied having any knowledge of the crime but nonetheless went with them to the police station.^[12]

On May 26, 1998, the trial court rendered a Decision^[13] finding the appellant guilty beyond reasonable doubt of the crime of rape under paragraph 2 of Article 335 of the Revised Penal Code and sentenced him to suffer the penalty of RECLUSION PERPETUA and to indemnify the victim the sum of ₱50,000.00, to pay moral damages in the amount of ₱50,000.00 and the costs.^[14] Hence, the instant appeal.

Appellant raises the following Assignment of Errors:

“I

THE TRIAL COURT GRAVELY ERRED IN RENDERING A DECISION WITHOUT EXPRESSING THEREIN CLEARLY AND DISTINCTLY THE LAW ON WHICH IT IS BASED.

II

THE TRIAL COURT GRAVELY ERRED IN CONCLUDING THAT THE VICTIM IS A MENTAL RETARDATE.

III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.”^[15]

We affirm the conviction of the accused-appellant.

In his first assigned error, appellant argues that the decision of the court *a quo* violates Article VIII, Section 14 of the Constitution which states that “no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.” The lower court allegedly made generalizations without detailing the basis of its findings.^[16]

We hold that the assailed decision substantially complied with the constitutional mandate of Article VIII, Section 14 of the Constitution. The decision contains a summary of the evidence for both the prosecution and the defense, findings of facts as well as an application of case law. The decision states, thus:

“Upon a careful study of the entire records and evidence, this Court finds that there is no dispute that Marijoy Sumagpang, a mental retardate, was raped. At the time she was sexually ravaged, Marijoy was twenty years of age albeit her mental state is that of a nine year and three month old child. The real issue then is whether or not accused Federico Orbita raped her.

X X X

X X X

X X X

A review of the evidence convinces the Court with moral certainty that Marijoy Sumagpang was sexually ravaged by the accused. The victim Marijoy Sumagpang was unequivocal in stating that while she was at the residence of the accused on April 14, 1995, the latter kissed her on the lips, embraced her, removed her clothes and her panty, and thereafter inserted his penis on (*sic*) her vagina. The ravishment of the victim is confirmed by the report of Dr. Poblete that there was evidence of vaginal penetration; that there was a slight bleeding (droplet) coming from the vaginal os and that there was a hymenal laceration at 6:00 o'clock and also at the right parihymenal, that is, on the sidings of the hymen.

It is a rule that (*sic*) in rape cases that sexual intercourse with a woman who is deprived of reason constitutes rape (People vs. Estrella, 124 SCRA 114). This is because while, as in this case, the woman may be twenty years of age, her mental capacity is that of a nine year and three month old child. Hence, she is incapable of giving consent to the sexual intercourse. (People vs. Sunga, 137 SCRA 131). The necessity of proof beyond reasonable doubt of force or intimidation having been applied is absent.”^[17] (*emphasis supplied*)

The purpose of Article VIII, Section 14 of the Constitution is to inform the person reading the decision, and especially the parties, of how it was reached by the court after consideration of the pertinent facts and examination of the applicable laws.^[18] The losing party is entitled to know why he lost, so he may appeal to a higher court, if permitted, should he believe that the decision should be reversed. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.^[19] Thus, a decision is adequate if a party desiring to appeal therefrom can assign errors against it.^[20] The accused-appellant cannot pretend he is unable to understand the basis of his conviction for he was able to assign specific errors against the trial court's decision and discuss them intelligently.

We shall now deal with the issue which, although not raised by the accused-appellant in his Brief, was discussed by the Solicitor General in his Comment, i.e., whether the accused-appellant, who is charged with rape under paragraph 1 of Article 335 of the Revised Penal Code, may be convicted under paragraph 2 or 3 of the same article even if the Information did not allege her mental state.

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, states:

“Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

x x x

x x x

x x x.”

The Information against accused-appellant alleged that he had carnal knowledge of the victim by means of force, violence and intimidation, against the latter's will and consent.^[21] It did not allege her mental state. During the trial, however, the prosecution proved that the victim is a mental retardate and the accused-appellant was convicted under paragraph 2 of Article 335 of the Revised Penal Code.

Considering the circumstances of the case at bar, we hold that the accused-appellant was properly convicted under paragraph 2 of Article 335 of the Revised Penal Code. To be sure, the issue is not novel. As well pointed out by the Office of the Solicitor General in its Comment, viz.:

“However, we submit that accused-appellant has waived his constitutional right to be informed of the accusation against him. During the trial, he did not register objection to the introduction of any evidence that would prove complainant's mental condition (see: *People vs. Romua*, 272 SCRA 818 [1997]; *People vs. Tabao*, 240 SCRA 758 [1995]; *People vs. Tormentos*, 211 SCRA 212 [1992]. His objection was against the competency of the expert witnesses, Drs. Dijamco and Poblete, but not to the admissibility of their testimonies on the ground that it would prove a crime with which he was not charged. Moreover, while the Information did not allege her mental condition, such fact appeared in the medical report (Rec., p. 6), request for medical examination (*ibid.*, p. 7), and the affidavits of Belen Payongayong (*ibid.*, p. 8) and Lourdes Sumagpang (*ibid.*, p. 11) which were attached to the complaint. In