

THIRD DIVISION

[G.R. No. 141128, August 30, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ORPIANO DELOS SANTOS, ACCUSED-APPELLANT.**

D E C I S I O N

GONZAGA-REYES, J.:

The accused, Orpiano Delos Santos was charged with the crime of rape in an information that reads as follows:

"That sometime in the month of August, 1995, in Brgy. Baruan, municipality of Agno, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously pull complainant Rowena Caboteja inside a room of his (accused) house, point a bolo on her neck and then and there have sexual intercourse with Rowena Caboteja, a minor of 16 years of age, and a retardate, against her will and consent, to her damage and prejudice."^[1]

On September 2, 1996, the accused was arraigned and with the assistance of counsel *de officio* pleaded not guilty to the crime charged.^[2] Trial began thereafter.

The evidence presented by the prosecution to support its charge that accused-appellant raped private complainant is as follows:

Private complainant Rowena Caboteja was a seventeen-year-old girl who lived with her parents and her one-year-old sister in Brgy. Baruan, Agno, Pangasinan. Their house was around 100 meters away from the house of accused-appellant.

Sometime in August 1995, private complainant fetched her younger sister from a neighbor's house which was located around 250 meters away from their residence^[3]. It began to rain on their way home so they took shelter in the house of accused-appellant. Accused-appellant was then alone at his house. While they were inside the house, accused-appellant suddenly pulled her to a room upstairs. Once inside the room, accused-appellant hurriedly removed private complainant's short pants and stuffed it in private complainant's mouth. Accused-appellant then removed his own short pants and he forced private complainant to lie down on the floor. Accused-appellant then positioned himself on top of private complainant, inserted his penis into her vagina and proceeded to make push and pull movements on top of her. Considering that she was gagged by accused-appellant, private complainant was not able to shout for help although she felt pain in her genitalia

and blood flowed from her vagina. After a few minutes, she felt a sticky substance enter her vagina. Afterwards, accused-appellant threatened to slash her neck if she reported the incident to anybody.^[4]

Private complainant then went home with her little sister. Because of the threats made by accused-appellant, she did not report her harrowing experience to anyone^[5]. However, her parents noticed that she began to have nightmares and that she always had a worried look on her face. When the parents of private complainant asked her what was wrong, she revealed that accused-appellant had ravished her.^[6]

Private complainant's father immediately reported the sexual assault on his daughter to the barangay captain, allegedly in order to get a clearance to file the case. The barangay captain subsequently indorsed the case to the police. An investigation was conducted and private complainant was made to undergo a physical examination.^[7]

The examining physician, Dr. Crisostomo San Juan, Jr., a municipal health officer of Agno, Pangasinan, found a healed laceration in the hymen of private complainant, as stated in his medico-legal report^[8]. He likewise testified that when he asked private complainant several questions about the incident, she did not respond to the queries and instead she simply stated that she was raped.^[9]

In November 1995, the private complainant was subjected to a psychiatric evaluation by Dr. Marie Sheridan Milan of the Department of Psychiatry of the Baguio General Hospital. After four sessions with the private complainant, Dr. Milan drafted a Psychiatric Evaluation^[10] dated March 6, 1997 of the private complainant Rowena Caboteja. In her evaluation, Dr. Milan diagnosed private complainant as suffering from moderate mental retardation with psychosis. She concluded from her tests that private complainant had a mental age of about seven (7) years old and her IQ was only 47.

For his part, accused-appellant Orpiano Delos Santos denied ever raping private complainant and interposed the defense that he and private complainant were sweethearts and had a consensual sexual relationship. He claims that their relationship started sometime in 1994 after private complainant seduced him by sitting on his lap while he was on a hammock. Their relationship allegedly ended in September 1995 when private complainant's mother objected to his proposal to marry private complainant^[11]. Allegedly, private complainant's mother was so furious when she found out about their relationship that she even clubbed accused-appellant with a piece of wood. He denied ever raping private complainant and surmised that the case was filed against him because of the anger of the parents of the victim^[12].

On cross-examination, accused-appellant stated that they did not exchange love letters or other mementoes of their alleged relationship as both of them did not know how to write. He claimed that the private complainant often visited his house and they had consensual sex once a week at his house. He claimed further that his two children knew about their relationship but that they did not object to it.^[13]

Mario Delos Santos, a son of the accused, testified that he knew private complainant since childhood since the latter was their neighbor. He claims that private complainant was the girlfriend of his father and that she usually visits his father at their house. He recalled that on July 7, 1995, he saw accused-appellant and the private complainant embracing and kissing each other inside their house.^[14] Contrary to the claim of the prosecution, he insisted that private complainant was not mentally retarded.^[15]

Jamie Pilon, a Barangay Kagawad of Baruan, Pangasinan, testified that he was called by the parents of the victim to the latter's house in order to talk about their accusations against accused-appellant. He testified that while he was talking to the parents of the victim, accused-appellant arrived at the house but he was driven away by the mother of the victim^[16]. He recalled that two weeks after the incident, the parents of the victim went to the Barangay Hall allegedly to request for a clearance to file a rape charge against accused-appellant^[17]. When asked whether he noticed the private complainant was mentally retarded, he replied that she acted as if she was because she was always roaming around the neighborhood.^[18]

Helen Delos Santos, a distant relative of accused-appellant testified that she had known the private complainant since the latter's childhood. She claimed that her house was quite near the house of private complainant and that she often saw private complainant visit the house of accused-appellant. She further testified that she did not notice any signs that private complainant suffered from mental retardation^[19].

On October 4, 1999, the trial court rendered the questioned decision convicting the accused of the crime charged as follows:

"WHEREFORE, in consideration of the foregoing premises, judgment is hereby rendered, declaring the accused GUILTY beyond reasonable doubt of the crime of rape and the accused is hereby sentenced to suffer the single indivisible penalty of RECLUSION PERPETUA in accordance with article 335 as amended by R.A. 7659.

The accused is further ordered to indemnify the complainant the sum of FIFTY THOUSAND PESOS (P50,000.00) for the crime committed.

Upon receipt of this Decision, and it being that the accused is now detained, the Provincial Jail Warden is ordered to commit the accused to the National Penitentiary at Muntinlupa City within a period of five days from receipt hereof in order to decongest the prevailing crowded condition of the Provincial Jail.

IT IS SO ORDERED."^[20]

Hence this appeal where the accused-appellant assigns the following errors committed by the trial court:

I

THE COURT A QUO GRAVELY ERRED IN FINDING ROWENA CABOTEJA A MENTAL RETARDATE.

II

ASSUMING WITHOUT ADMITTING THAT ROWENA CABOTEJA WAS A MENTAL RETARDATE, THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO HER TESTIMONY.

III

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In support of his assignments of error, the accused-appellant argues that the trial court erred in ruling that Rowena was mentally retarded. It is the position of the accused-appellant that the psychiatric evaluation of Rowena conducted by prosecution witness, Dr. Marie Sheridan Milan, more particularly the process used in determining the mental state of Rowena, falls short of the required historical and physical examination conducted by a clinician as pronounced in the case of *People vs. Cartuano, Jr.*^[21] According to the accused-appellant, Dr. Milan merely based her conclusion on the history of the victim and the fact that she obtained an intelligence quotient (I.Q.) of 47 and that the record is bereft of any clinical and laboratory and psychometric support which would sustain a proper conclusion that Rowena is indeed mentally deficient.

He further argues that assuming the findings of Dr. Milan reveal the true mental state of private complainant, she could not have accurately testified on the rape which occurred two years prior to her testimony in court. Hence, accused-appellant concludes, the testimony of private complainant deserves no credence.

In *People vs. Cartuano, Jr.*^[22], the Court, speaking through Mr. Justice Santiago Kapunan, discussed the process in determining whether or not a person may be considered as mentally retarded. Thus:

"In making a diagnosis of mental retardation, a thorough evaluation based on history, physical and laboratory examination made by a clinician is necessary. The reason for this universal requirement is well-explained in both the medical and clinical psychology literature: mental retardation is a recognized clinical syndrome usually traceable to an organic cause, which determinants are complex and multifactorial. As the boundaries between normality and retardation are difficult to delineate, proper identification requires competent clinical evaluation of psychometric parameters in conjunction with medical and laboratory tests." (citations omitted)

In the case at bench, a thorough reading of the psychiatric evaluation made by Dr. Marie Milan on the private complainant reveals that there was sufficient compliance with the requirements laid down in the *Cartuano* case. Contrary to the assertion of accused-appellant, there was an adequate and proper clinical determination of the mental deficiency of private complainant.

In the case at bench, Dr. Milan conducted four (4) psychiatric sessions with the private complainant^[23]. From these sessions, she was able to form an adequate picture of private complainant's psychological state. The assessment and the recommendations made by Dr. Milan on the private complainant, reads, as follows:

"PSYCHOLOGICAL TEST RESULTS: date examined March 11, 1996.

Results obtained were both positive for psychosis and mental retardation. She scored a mental age of seven (7) year old and obtained an intelligence quotient of 47, classified within the Moderate mental Subnormality (Imbecile level - old terminology).

ASSESSMENT AND RECOMMENDATIONS:

In view of the foregoing history, examinations and observations don, it has been found that patient ROWENA CABOTEJA has been suffering from MENTAL RETARDATION, MODERATE, WITH PSYCHOSIS. Basis for this assessment which has been manifest in the patient which are the following:

1. Significantly sub-average Intelligence Quotient of approximately 70 or below or an individually administered IQ test. She had an IQ of 47.
2. Concurrent deficits or impairment in present adaptive functioning (i.e. effectiveness in meeting the standards expected for her age) in at least two of the following areas:
 - a. communication - she is unable to express her needs (e.g. unable to tell if she has her menstrual periods and needs changing; did not tell what Orpiano did to her until she was asked.);
 - b. self-care - unable to keep hygiene or groom herself without supervision; she does not also know what her rights are;
 - c. home-living - she cannot cook or clean the house without supervision;
 - d. social/interpersonal skills - unable to form intimate relationships from outside the family;
 - e. use of community service - does not know that there are certain figures of authority to whom she could ask for help from after the