THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RIZALDY ROXAS Y MAGADIA, ACCUSED-APPELLANT.

Ponente: SALANDANAN-MANAHAN, C., J.

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SALANDANAN-MANAHAN, C., J.:

> "To an increasing extent, the public is being treated to news reports of crimes of depravity committed by persons who are otherwise normal and in full possession of their faculties. They cannot be charged with being under the influence of intoxicating liquor or illegal drugs, nor of having acted under passion or obfuscation. And yet, in an instant, they are transformed into monsters of abomination.
>
> Particularly abhorrent are those who, chancing upon young, innocent and guileless asses, are suddenly seized by an uncontrollable desire to inflict their libidinous urges on these hapless maidens. With hardly a moment's reflection, they stalk their intended victims and eventually violate the latters' chastity without any qualms of conscience or guilt feelings.
>
> More detestable is the crime of rape committed upon a girl with a child's mind, for she is utterly defenseless, completely unaware that already, she is being robbed of that most precious gift within woman's power to offer to whomever and whenever she pleases.
>
> The case at bench is another heart-rending instance of the violent defloration of a mental retardate who could only dimly discern that already, she was being ravished.[1]
>
> To those who exalt the Holy Writ as Law and profess to live by the Word, this injunction unbidden comes to mind: "Now we exhort you, brethren, warn them that are unruly, comfort the feeble-minded, support the weak, be patient toward all men."[2]
>
> Sa mga nilalang ng Maykapal sa balat ng lupa, walang higit na nakamumuhi na gaya ng pinag-uusig sa kasong ito na hindi man nagpakita ng anumang pagpipitagan sa pagkatao ng kababaihan, lalu't lalo na sa mga mga isip-bata. Tila baga nalimutan na sila ay sinilang rin sa isang ina at marahil ay mayroon ding mga kapatid na babae.
>
> Ang pagwasak sa puri ng isang nagdadalaga na walang kamalaymalay sa kamunduhan ay gawa ng isang halimaw na nararapat lamang na patawan ng kaukulang kaparusahan ng mga hukuman ng ating lipunan."[3]

The Case

This is an appeal from the Decision[4] of the Regional Trial Court of Manila, Branch 5, convicting the accused-appellant of rape and sentencing him to suffer the penalty of reclusion perpetua.

Consistent with the Decision of the Supreme Court in People v. Cabalquinto,[5] the real name of the rape victim in this case is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.

The Charge

On November 28, 2001, an Information was filed in the Regional Trial Court of Manila, Branch 5, charging the

accused-appellant of rape, defined and penalized under Paragraph 1 (d) of Article 266-A of the Revised Penal Code in relation to Section 5 (b), Article III of Republic Act 7610. The docket number and the accusatory portion of the Information[6] read as follows:

> Criminal Case No. 01-197576
> "That sometime prior to November 11, 2001, in the City of Manila, Philippines, the said accused by means of force, violence and intimidation that is, threatening to kill her should she disclosed (sic) the matter, did then and there willfully, unlawfully, and feloniously had carnal knowledge with AAA, a minor 10 years old, retardate, against her will, thereby causing serious danger and prejudice to the normal growth and development of said AAA.
>
> Contrary to law."

Upon arraignment on January 29, 2002,[7] the accused-appellant, assisted by his counsel, entered a plea of not guilty.

The Facts

At the ensuing trial, the prosecution presented the following witnesses, namely: (1) The complainant AAA, (2) Dr. Merle Tan, 3) BBB, mother of AAA, (4) CCC, father of AAA, (5) DDD, cousin of AAA, and (6) SPO4 Medina Oligo.

The prosecution also presented the following documentary evidence, to wit: (1) Letter Request of the Philippine National Police (PNP) to the Director of the National Bureau of Investigation (NBI) [Exhibit "A"]; (2) Consent [Pahintulot] of the mother to conduct physical examination on the minor victim by a medico-legal officer [Exhibit "B"]; (3) Provisional Medico-Legal Report No. 2001-11-0039 dated November 14, 2001 [Exhibit "C"]; (4) Final Medico-Legal Report [Exhibits "D" to "D-5"]; (5) Picture of the truck where the incident transpired [Exhibits "E" and "F"]; and (6) Sinumpaang Salaysay of CCC [Exhibit "G"] and BBB [Exhibit "H"].[8]

The prosecution evidence established the following facts:

At the time of the alleged rape, AAA was only ten (10) years old. When she testified on August 27, 2002, she was already twelve (12) years old but was only in Grade II due to mental retardation. She had been in Grade I twice and once in Kindergarten. At her age, AAA should have been in Grade VI already but she has difficulty listening to her teacher although she understands what the latter is telling her.

AAA declared on the witness stand that the accused-appellant had raped her.

When asked to elaborate, AAA explained that on November 11, 2001, Sunday while she was playing in front of their house, the accused-appellant, who was then loading sardines in a delivery truck parked nearby, called her and told her they will have sexual intercourse. AAA agreed and climbed the rear portion of a truck. While they were inside the truck, the accused-appellant undressed her and thereafter, he removed his pants. While AAA was in a lying position, the accused-appellant covered her mouth with his hand, poked a knife at AAA's neck, went on top of her and inserted his penis into her private part. AAA felt pain while being raped. She shouted "Sumbong Pulis!" but she did not tell the police or her parents because the accused-appellant threatened to kill her if she tells anybody about it. The accused-appellant inserted his penis into her vagina twice on two different days.

BBB, mother of the private complainant testified that prior to November 11, 2001, she has known the accused-appellant since 1982. Accused-appellant used to work for them as an extra worker or "pahinante". On November 11, 2001, she was at their vulcanizing shop while her daughter AAA was playing in front of their house. BBB saw the accused-appellant called AAA and the latter acceded. They talked for about five (5) minutes. During that time, BBB was at the gate of the building talking to her nephew. When BBB noticed that the

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accused-appellant was drunk, she immediately called AAA. BBB then asked AAA what the accused-appellant told her. AAA replied that the accused-appellant wanted to have sexual intercourse with her. When BBB heard AAA's reply, she was shocked and asked her how many times did the accused-appellant do it to her and AAA answered "twice".

When BBB was talking to AAA, the accused-appellant was no longer there. Furious, BBB told DDD, her husband about the rape incident. It was DDD who apprehended and brought the accused-appellant to the police precinct. DDD corroborated BBB's testimony.

Dr. Merle P. Tan, a consultant at the Philippine General Hospital-Child Protection Unit, testified that she examined AAA on November 14, 2001. The findings on the physical examination on AAA are as follows:

GENERAL PHYSICAL EXAMINATION

HEIGHT

124 cm.

WEIGHT

27.2. kg.

TANNER STAGE

2

GENERAL SURVEY No stunting, No wasting, Ambulant, Not In Respiratory Distress

MENTAL STATUS Oriented as to person and place.
Conscious.
Hyperactive

PERTINENT PHYSICAL
FINDINGS/PHYSICAL
INJURIES Breast Tanner Stage: 2
No evident injury at the time of examination.

ANO-GENITAL EXAMINATION

EXTERNAL GENITALIA Tanner Stage 2, Posterior Fourchette

URETHRA AND
PERIURETHRAL AREA No evident injury at the time of examination.

PERIHYMENAL AREA AND FOSSA NAVICULARIS No evident injury at the time of examination.

HYMEN Tanner Stage 2, absent hymen at 6:00 o'clock area,
Hymenal remnant 3-5 o'clock and 7-9 o'clock area,
Type of Hymen: Crescentic

PERINEUM No evident injury at the time of examination.

DISCHARGE None

IE AND SPECULUM EXAM Not Indicated

ANAL EXAMINATION No evident injury at the time of examination.

REMARKS

FORENSIC EVIDENCE COLLECTED None

LABORATORY EXAMINATION
(EXAM AND RESULT)

Trichomonas (Wet Prep) (Negative) (), Monilia (KOH Prep) (Negative) (), Gram Stain (Laboratory examination results pending), Gonorrhea Culture Of Vaginal Swab (Negative) (light growth of staphylococcus and bacillus species).

IMPRESSIONS

Disclosure of sexual abuse.
Genital findings show clear Evidence Of Blunt Force Or Penetrating Trauma.
Mental retardation.

Name and Signature of Examiner/s: MERLE P. TAN, M.D."[9]

Furthermore, the interview[10] conducted on AAA on November 14, 2001 revealed the following facts:

INTERVIEW SUMMARY

The patient disclosed that she was allegedly sexually abused by "Ting". She said he called her to have sex. She demonstrated through the anatomical doll the act done to her. This happened twice. He threatened to kill her if he would disclosed (sic) the matter. (Si Ting, k-----t niya ako. Si Ting taga amin. Dalawang beses (showing it with her hands) huwag daw akong magsusumbong papatayin daw ako").

She found an absent hymen at 6:00 o'clock position which could be probably due to the several incidents of penetration on the hymen.[11 Dr. Tan concluded that the genital findings on AAA show clear evidence of blunt force or penetrating trauma.[12]
]
The witnesses for the defense were (1) accused-appellant Rizaldy Roxas y Magadia, (2) Flordeliza Roxas, common-law partner of the accused-appellant, and (3) his co-worker Dominado Reponte.

The evidence for the defense consisted of denial and alibi. He denied raping AAA and argued that the court a quo erred in giving credence to the victim's incredible, inconsistent, and incoherent testimony.

The accused-appellant testified that he was residing at 429 San Nicolas Street, Binondo, Manila and not at AAA's house. On November 11, 2001, he was at San Nicolas Street, Binondo, Manila attending a wake together with the parents of AAA. At that time, he was no longer working at the business establishment of AAA's parents. Prior to November 11, 2001, he was working as a "pahinante" with Hakone Sardines Factory, owned and operated by Jessie Sy. Before working at Hakone, he worked as a helper at Tri-Star Sardines which was owned by Mariano Sy.

The accused-appellant claims that the charge was merely fabricated because CCC was furious at him due to the latter's altercation with the cousin of Flordeliza Roxas. The accused-appellant avers that the alleged rape was a means resorted to by CCC to get back at him.

Dorminado Reponte testified that at the time the incident happened, he was a co-worker of the accused-appellant at Hakone Sardines. He is a laborer at Hakone Development. Reponte said that he knows that the accused-appellant molested AAA but he did not report it to the police authorities because they quarreled prior to the incident. He further testified that on November 11, 2001, the accused-appellant did not leave the workplace.

The Trial Court's Ruling
After trial on the merits, the trial court rendered judgment convicting the accused-appellant of the crime with which he is charged. The decretal portion of the Decision reads:

> "WHEREFORE, premises considered, accused RIZALDY ROXAS y MAGADIA is GUILTY of the crime charged and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to indemnify private complainant the amount of P30,000.00 as exemplary damages without subsidiary imprisonment in case of insolvency and to pay the costs.
>
> SO ORDERED."[13]

On appeal, the accused-appellant assails the Decision of the trial court contending that:

> "THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR."[14]

In its Brief, the plaintiff-appellee argued that the appellant is guilty beyond reasonable doubt of the crime charged in the Information.[15]

The Issue
The core issue in this case is whether or not the RTC erred in finding that the accused-appellant raped AAA, a mental retardate.

The Court's Ruling
The appeal is WITHOUT MERIT.

An examination of the entire records of the instant case impel us to affirm the assailed Decision of the RTC.

As the Supreme Court has repeatedly ruled, we accord the trial judge's assessment of the credibility of witnesses great respect in the absence of any attendant grave abuse of discretion. The trial court had the advantage of actually examining both real and testimonial pieces of evidence, including the demeanor of the witnesses, and is in the best position to rule on the matter. In the present case, we see no reason to depart from the trial court's assessment of AAA's testimony.[16]

As a mental retardate, the victim's testimony could not be expected to be flawless and precise as her quoted testimony shows. What is important, however, is that she was able to make known her perception and communicate her ordeal, albeit with some difficulty, and positively identify her rapist. We see no basic contradiction in what the victim can and cannot do as a mental retardate.

Even a mental retardate or feeble-minded person qualifies as a competent witness if she can perceive and, perceiving, can make known her perception to others. In People v. Maceda,[17] we held that the mental unsoundness of the witness at the time of the event testified to affects only her credibility. As long as the witness can convey ideas by words or signs and gives sufficiently intelligent answers to the questions propounded, she is a competent witness even if she is a mental retardate. In People v. Salomon,18 the Supreme Court held that "[a] mental retardate is not for this reason alone disqualified from being a witness. As in the case of other witnesses, acceptance of one's testimony depends on its nature and credibility". In People v. Gerones,[19] the Highest Court

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allowed the victim to testify, even if she had the mental age of a 9 or 10-year old. Likewise, in People v. Antonio,[20] it allowed the testimony of a 24-year old woman who had the mental age of a seven-year old child, because the Court was convinced that "she was capable of perceiving and making her perception known".

The Supreme Court has held time after time that factual findings of the trial court, especially on the credibility of witnesses, are accorded great weight and respect and will not be disturbed on appeal.[21] This is so because the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, or the forthright tone of a ready reply; the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien.[22] Only when there appears in the record some facts or circumstances of weight and influence which the trial court overlooked, misunderstood or misappreciated and which, if properly considered, would have altered the results of the case, will this Court depart from the said rule.

Indeed, we find no reason to doubt AAA's competence. Even a mental retardate could qualify as a competent witness,[23] for as long as, she could perceive and is capable of making known her perception to others.[24] It has long been settled that a person should not be disqualified on the basis of mental handicap alone.[25] He or she can be a witness, depending on his or her ability to relate what he or she knows. If the testimony of a mental retardate is coherent, the same is admissible in court.[26]

Despite her mental retardation, we agree with the trial court that AAA adequately showed she could convey her ideas by words and could give sufficiently intelligent answers to the questions propounded by her counsel, the counsel for the defense and the court. Enlightening are the following excerpts from her candid and unequivocal testimony[27] which we quote verbatim:

"Q:

Now, do youn know one Rizaldy Roxas y Magadia?

A:

Yes, ma'am.

Q: Is he in the court room right now?

A: Yes, ma'am.

Q: Will you please stand up and point to the court where is Rizaldy Roxas?

LEGAL RESEARCHER:

(The witness pointed to a person who answered by the name of Rizaldy Roxas)

COURT:

Q: Joy, ano mo siya (Rizaldy), Tiyo, kamag-anak, kaibigan?

A: He is just working for us, your Honor.

FISCAL:

Q: What is his job?

A: Nagkakarga ng sardinas. (They are loading sardines).

COURT:

Packaging sardines.

FISCAL:

Q: Now, tell us, is he a good man or a bad man.

A: Salbahe (bad man)

Q: Please tell us what he did to you?

A: K------t nya po ako.

Q: Do you understand the word "k-----t"?

A: Hindi po. Sinabi niya lang sa akin. (I do not know. Ting only told me what is "k-----t")

Q: Who is Ting Roxas?

A: Rizaldy Roxas.

Q: Can you tell us...

COURT:

Q: Where were you when Ting Roxas told you that "k-----t"?

A: I was playing downstairs. It was a Sunday.

FISCAL:

Q: You said accused told you that we have that ""k-----t" what did he do to you if any?

A: He removed my shirts and shorts.

Q: How about him?

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A: Pinasok niya ang "titi" niya dito (pointing to her vagina) and he inserted his penis.

Q: Who removed your clothings?

A: Rizaldy Roxas.

Q: Did he remove his clothings?

A: Pantalon lang po. (He only removed his pants.)

Q: How about his pants did he remove?

A: No, maam.

Q: And what did he do with his penis?

A: K-----t niya po ako and then he told me not to tell anybody or he will kill me.

COURT:

Q: What was removed by him shorts or pants?

A: Short.

LEGAL RESEARCHER:

Q: Alam mo ba kung ano short?

A: Opo.

FISCAL:

Q: Ano yung short?

A: Maiksi.

COURT:

Q: Wala siyang brief? Do you know what is a brief?

A: Wala po.

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FISCAL:

Q: You said that you were threatened. What did you...what did he do which made you believed that he was threatening you?

A: He covered my mouth.

Q: Can you tell us what did he use in covering your mouth?

A: His hand only.

Q: What part of the hand, the right or left hand?

A: The left hand.

Q: You have two hands. Alin ang ginamit niya itong kanan o ito? (referring to the left hand)?

A: Ito (showing her right hand).

Q: You said that you were playing downstairs, which part of the house was that?

A: Near our truck.

Q: Now, where was your mother then?

A: She was upstairs.

Q: How about your father, where was he?

A: He is also upstairs.

Q: Do you have sisters and brothers?

A: Yes, ma'am.

Q: Where were they at that time?

A: They were also upstairs.

Q: So aside from the accused and you, who were in that place at that time?

A: A nephew of my mother, Kuya Dagie.

Q: Where was Kuya Dagie? Where was he?

A: He was at the vulcanizing. He was doing the tire.

COURT:

But very near the place.

Q: How far where you and Rizaldy Roxas from your Kuya Dagie?

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A: He was far from us.

Q: You said awhile ago that the accused raped you, do you know whether your Kuya Dagie was able to see you?

A: No, ma'am.

Q: Why?

A: Because I was only on the truck.

Q: When the accused or Kuya Ting undressed you, you were inside the truck. Is that what you are telling us?

A: Yes.

Q: Now, will you tell us, will you describe to us how big is this truck?

A: (No answer)

Q: You said you were inside the truck. Where were you? Were you seated down in the chairs?

A: At the back of the truck.

Q: Tell us when you were already undressed and the accused has already removed his shorts, were you both standing up?

A: Standing up?

COURT:

Q: How about Ting was he standing also or he was sitting?

A: Also standing up.

Q: When he inserted his penis into your vagina, were you both standing up?

A: No.

Q: So, what were your position?

A: We were lying down down.

Q: What about you?

A: Lying down also.

Q: Were you facing each other?

A: Magkaharap (facing each other).

Q: Was Ting on top of you?

A: He was on top of me.

Q: How did you feel when the penis of Ting was inserted into your vagina?

A: Masakit. (painful)

Q: You said it was painful, why did you not shout?

A: Because he told me he is going to kill me.

Q: What made you believe that he is going to kill you?

A: He told me not to tell anybody or else he is going to kill me.

Q: Can you tell us if he is carrying something?

A: Yes.

FISCAL:

Q: You tell us what was that object?

A: Knife.

Q: When he inserted his penis to you it bleed? (sic)

A: Yes.

Q: You tell us how many times did the accused inserted (sic) his penis to your vagina?

A: Twice, ma'am.

Q: In the same truck?

A: Yes.

Q: At the same time or another day?

A: Two different days.

COURT:

Q: After the first why did you not tell your mother?

A: Because he told me he is going to kill me.

Q: What prompted you to tell your mother after the second time?

A: Because I was afraid.

Q: DId the accused repeatedly told (sic) you that he is going to kill you if you will tell that to your parents?

A: Yes.

Q: And how many days after did you tell to your mother?

A: Two days."

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The accused-appellant argues that the trial court erred in giving full weight and credit to the incredible, incoherent, and inconsistent testimony of AAA.

The accused-appellant belabors on the alleged inconsistencies in AAA's testimony as to what she understands by the word "rape" and as to what the accused-appellant was wearing when the rape happened, a t-shirt or pants.

These alleged contradictions easily dissipate when the testimony of AAA is considered and calibrated in its entirety and not only based on truncated portions or isolated passages.[28] The true meaning of answers to isolated questions propounded to a witness is to be ascertained by due consideration of all the questions propounded to the witness and his answers thereto.[29] The whole impression or effect of what had been said or done must be considered and not individual words or phrases alone.[30] It should be noted that AAA is a mental retardate and, hence, her testimony must be treated with the broadest understanding without, however, in any way sacrificing the quest for truth.

The alleged contradictory statements of AAA as to whether the accused-appellant was wearing pants/t-shirt or not at the time the rape was committed is not sufficient to render AAA's testimony doubtful nor does it negate the commission of rape. Said contradiction or inconsistency is inconsequential considering that it refers to a trivial detail which has nothing to do with the essential fact of the commission of the crime of rape, that is, carnal knowledge through force or intimidation. A rape victim, especially a mental retardate, cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.[31] Truly, AAA may have given some unresponsive answers to the questions propounded upon her, however, they refer only to minor details and they should not be taken against her.

However, despite her low intelligence, we entertain no doubt concerning AAA’s testimony. It categorically shows that she had been subjected to a harrowing, unspeakable experience, which left an indelible impression in her mind. The shock to a woman of an unwelcome penile invasion is unimaginable,[32] more so where she is still child and a mental retardate.

To sustain such an alibi, the accused-appellant must establish that (a) he was in another place at the time of the commission of the offense; and (b) he was so far away that he could not have been physically present at the place of the crime, or its immediate vicinity, at the time of its commission.[33]

The defense of alibi and denial was correctly found to be unworthy of credit. The accused-appellant's claim that he was with the parents of AAA in San Nicolas Street, Binondo, Manila on November 11, 2001 attending a wake, was not established by competent evidence.

The accused-appellant failed to establish both requirements. Aside from the testimony of AAA, the clear and categorical testimony of Quirino Resureccion established that the accused-appellant was at the scene of the incident on November 11, 2001. The Court takes judicial notice of the fact that San Nicolas Street and Caballero Street, where the rape incident took place, are neighboring streets which can be easily reached in less than ten (10) minutes.

Moreover, it is true that the accused-appellant's story was corroborated by additional witnesses. These testimonies, however, did not show the physical impossibility of the accused-appellant to be present at Caballero Street where AAA was raped. Even if the accused-appellant was at San Nicolas Street on the same day, he could have very easily committed the rape as he was in the same vicinity as AAA.

Besides the denial of the accused cannot prevail in the face of the positive identification of the accused.[34] His alibi fails in the light of the positive and unequivocal declaration of AAA. It is an oft-quoted doctrine that positive identification prevails over denial and alibi.[35]

The accused-appellant's conviction was based on the positive and direct testimony of AAA. The absence of evidence of any improper motive on her part to testify as principal witness of the prosecution strongly tends to sustain the conclusion that no such improper motive existed at the time she testified and her testimony is worthy of full faith and credit.[36] When the victim's testimony of her violation is corroborated by the physical evidence of penetration, there is sufficient foundation for concluding that there was carnal knowledge.

> "ART. 266-A. Rape; When and How Committed. — Rape is committed.
>
> 1)
>
> By a man who 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. [Emphasis supplied]."

It can be deduced from the aforequoted provision that for the charge of rape to prosper, the prosecution must prove that; (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she is deprived of reason or otherwise unconscious, or when she is under 12 years of age or is demented.[37]

The term "woman deprived of reason" includes one suffering from mental retardation.[38] Clearly, carnal knowledge of a woman who is a mental retardate is rape under the aforesaid provisions of law. Proof of force or intimidation is not necessary as a mental retardate is not capable of giving consent to a sexual act. What needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter. [39]

Sexual intercourse with a woman who is a mental retardate constitutes statutory rape, which does not require proof that the accused used force or intimidation in having carnal knowledge of the victim for conviction.[40]

The Information sufficiently alleged that appellant, by means of force and intimidation, raped then 10-year old AAA. The prosecution has proven beyond reasonable doubt that appellant used force and intimidation in committing the crime of rape in this case. AAA's testimony sufficiently demonstrated that the sexual act was forced on her when the accused-appellant undressed her, removed his pants and while AAA was in a lying position, the accused-appellant covered her mouth with his hand, poked a knife at AAA's neck, went on top of her and inserted his penis into her private part.

The Court, thus, sustains the conviction of the accused-appellant for the crime of statutory rape under Article 266-A, paragraph 1 (d)[41] of the Revised Penal Code (RPC)[42] and the imposition of the penalty of reclusion perpetua in accordance with Article 266-B of the RPC.[43] The penalty for statutory rape is reclusion perpetua, which being a single indivisible penalty, is imposable regardless of any mitigating or aggravating circumstances

that may have attended the commission of the deed.[44]

In line with prevailing jurisprudence,[45] the victim, in a case for simple statutory rape, is entitled to P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages.[46] In addition to the damages awarded, the Court also imposes on all the amounts of damages an interest at the legal rate of 6% from this date until fully paid.[47]

In view of the foregoing, the civil liability of P30,000.00 awarded by the trial court is increased to P50,000.00. However, the P50,000.00 exemplary damages is reduced to P30,000.00.

WHEREFORE, premises considered, the appeal is DISMISSED for LACK OF MERIT. The challenged Decision of the Regional Trial Court of Manila, Branch 5 in Criminal Case No. 01-197576 is AFFIRMED with MODIFICATION that the accused-appellant is ordered to pay the following:

- 1. P50,000.00 as actual damages;

- 2. P50,000.00 as moral damages;

- 3. P30,000.00 as exemplary damages; and

- 4. the costs of the suit.

The accused is further ordered to pay legal interest at the rate of 6% per annum on all the damages awarded in this case from the date of the finality of this judgment until fully paid.

SO ORDERED.

Dimaampao, J.B., (Chairperson), and Ybañez, E.A., JJ., concur

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[1] The People of the Philippines v. Francisco dela Cruz alias "Panki", G.R. No. 105720. December 8, 1995.

[2] 1 Thessalonians 5:14.

[3] Supra, note 1.

[4] Rollo, pp. 41-49.

[5] G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[6] Original Records, p. 1.

[7] Original Records, p. 20.

[8] Decision, p. 1; Rollo, p. 41

[9] Original Records, p. 32.

[10] Original Records, p. 33.

[11] TSN dated April 1, 2002, p. 12.

[12] Id at p. 15.

[13] Rollo, p. 49.

[14] Rollo, pp. 30-31.

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[15] Rollo, p. 73.

[16] People v. Dela Paz, G.R. No. 177294, February 19, 2008, 546 SCRA 363.

[17] G.R. No. 138805, February 28, 2001, 353 SCRA 228.

[18] G.R. No. 96848, January 21, 1994, 229 SCRA 403.

[19] G.R. No. 91116, January 24, 1991, 193 SCRA 263.

[20] G.R. No. 107950, June 17, 1994, 233 SCRA 283.

[21] Supra Note 16.

[22] People of the Philippines vs. Artemio Invencion y Soriano, G.R. No. 131636. March 5, 2003 citing People v. Bertulfo, G.R. No. 143790, 7 May 2002; citing People v. Abella, 339 SCRA 129, 144-145 [2000].

[23] People vs. Lagarto, 326 SCRA 693, 731 (2000).

[24] People vs. Baid, 336 SCRA 656, 666 (2000).

[25] Id., p. 671.

[26] People vs. Padilla, 301 SCRA 265, 270 (1999).

[27] TSN dated August 27, 2002, pp. 3-8.

[28] People vs. Pailanco, 322 SCRA 790, 797(2000).

[29] People vs. Delim, G.R. No 142773, January 28, 2003, citing Francisco, Revised Rules of Court, Part 11, Vol. VII, 1991 ed.

[30] People vs. Rosario, 246 SCRA 658, 668 (1995).

[31] People vs. Rabosa, 273 SCRA 142, 149 (1997).

[32] People v. Villarama, G.R. No. 139211, 12 February 2003, 397 SCRA 306, 317.

[33] People vs. Ferrer, G.R. No. 139695, August 26, 2002, pp. 13–14; People v. Malate, G.R. No. 185724, June 5, 2009.

[34] People vs. Abarquez, 216 SCRA 147; People vs. Mañago, 191 SCRA 552.

[35] People vs. Domingo, G.R. No. 143660, June 5, 2002, p. 19.

[36] People vs. Banela, 301 SCRA 84 (1999); People vs. Sotto, 275 SCRA 191, 201 (1997).

[37] People vs. Delim, G.R. No 142773, January 28, 2003, citing Francisco, Revised Rules of Court, Part 11, Vol. VII, 1991 ed.

[38] People v. Bacaling, 447 Phil. 197, 203 (2003).

[39] People v. Dela Paz, G.R. No. 177294, 19 February 2008, 546 SCRA 363, 376.

[40] People vs. Lopez, 346 SCRA 469, 474 (2000); People vs. Padilla, 301 SCRA 265, 273 (1999).

[41] .Art. 266-A. Rape; when and how committed. — Rape is committed.

1). By a man who shall have carnal knowledge of a woman under any of the following circumstances:

> xxx xxx xxx
>
> 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.

[42] Previously Article 335, par. 3 of the RPC which has been amended by Republic Act No. 8353 (the Anti-Rape Law of 1997).

[43] Art. 266-B. Penalties. — Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

[44] People v. Andaya, 365 Phil. 654 (1999).

[45] Victor Rondina vs. People of the Philippines, G.R. No. 179059. June 13, 2012.

[46] People v. Saludo, G.R. No. 178406, April 6, 2011, 647 SCRA397, 398.

[47] People v. Dumadag, G.R. No. 176740, June 22, 2011, 652 SCRA 535, 550.

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