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

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

Ponente: GONZAGA-REYES, J.

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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:
>
> - 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.);
>
> - self-care - unable to keep hygiene or groom herself without supervision; she does not also know what her rights are;
>
> - home-living - she cannot cook or clean the house without supervision;
>
> - social/interpersonal skills - unable to form intimate relationships from outside the family;
>
> - use of community service - does not know that there are certain figures of authority to whom she could ask for help from after the incident;
>
> - self-direction - unquestionably obeys what other people tell her to do; no initiative to decide on her own;
>
> - academic skills - cannot count beyond ten, cannot compute or read, cannot spell;
>
> - work - can only do simple housechores and with supervision;
>
> - health and safety - stands under the rain for long without knowing that she can get sick; unable to express rights or defend herself.
>
> 3. Onset is before 18 years of age.
>
> ROWENA CABOTEJA has been mentally incompetent from birth. She is unable to function at home or in society normally and, hence, needs consistent supervision. Her knowledge of sexuality is not well-developed for the level of intelligence. She is unable to express her rights nor can she defend herself. She cannot

voluntarily consent to decisions about her well-being.[24]"

There is thus a definite clinical diagnosis on record that private complainant Rowena Caboteja was mentally retarded with a mental age of seven (7) years old. This diagnosis was arrived at after a thorough evaluation, both physically and mentally, of private complainant by a qualified psychiatrist. The history of private complainant showing the lack of development of her mental facilities was likewise considered. Significantly, no evidence was presented by the defense to rebut the falsity of the psychological evaluation made on the private complainant either on the ground of inaccuracy or falsity[25].

It would not be amiss to point out that in the aforecited Cartuano case, the records therein were absolutely wanting in clinical, laboratory and psychometric support that would have sustained a conclusion that complainant therein was mentally deficient. In fact, the testimony of the examining psychiatrist was even stricken off from the records and, as such, her diagnosis was not at all considered in the resolution of the said case. In contrast, in the instant case, Dr. Milan clearly laid down the examinations, interviews and tests she conducted on the person of private complainant and she was made to expound on her findings in open court.

Besides, private complainant's harrowing ordeal at the hands of accused-appellant was not solely brought about due to her mental condition, but also, as categorically alleged in the information, by means of force and intimidation employed by accused-appellant. In open court, the private complainant narrated her ordeal at the hands of accused-appellant thus:

"PROS. RABINA:

Q:

Now, Madam Witness, when you were inside the house of accused Orfiano delos Santos because it was then raining, will you please tell this Honorable Court the first acts that delos Santos did to you?

A:

He pulled me, sir.

Q: Where did he bring you when he pulled you?

A: In the bedroom, sir.

Q: Where is that room located, downstairs or upstairs?

A: Upstairs, sir.

Q: By the way, as you said that you were with your little sister, how old is your sister?

A: One year old, sir.

Q: And when he pulled you to a room, was your sister left alone downstairs or not?

A: I brought her upstairs, sir.

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Q: And when Orfiano delos Santos brought you to the room, what did delos Santos do to you?

A: He removed my short pants and then, he inserted it to my mouth, sir.

Q: How about your panty, did he also remove your panty?

A: No, sir.

Q: Why, do you have a panty at that time or only the short?

A: Only the short pants, sir.

Q: And this Orfiano delos Santos, at that time, what was he wearing?

A: He was also wearing shorts, sir.

Q: And did he also remove his short pants after removing your short pants?

A: Yes, sir.

Q: After removing your short pants, how about his brief, did he also remove his brief?

A: No, sir.

Q: Why, was he not wearing brief at that time?

A: None, sir.

Q: And after removing your short pants, did he lay you down on the floor?

A: Yes, sir.

Q: And after laying you down, on the floor, he went on top of you?

A: Yes, sir.

Q: And after going on top of you, he immediately inserted his penis, is that what you mean?

A: Yes, sir.

Q: Can you tell the Honorable Court how long did delos Santos stay on top of you?

A: It was quite long, sir.

Q: And when he inserted his penis, into your vagina, what did you feel?

A: It was painful, sir.

Q: And was there blood that went out of your vagina?

A: Yes, sir.

Q: And when he was on top of you and his penis was inserted into your vagina, will you tell the Court what did delos Santos do when he was on top of you?

A: He told me not to report the incident or else, he will cut/slash my neck, sir.

Q: When he was on top of you, did he do a push and pull?

A: Yes, sir.

Q: And how long did Orfiano delos Santos do the push and pull while he was on top of you?

A: it was quite long, sir.

Q: And did you feel something went out inside your vagina when he was through with his push and pull action?

A: Yes, sir.

Q: And that thing that went inside your vagina was sticky?

A: Yes, sir.

Q: And after the accused have performed the sexual intercourse, what did he do, if any, after that

A: He inserted my short pants inside my mouth and then, did what he pleases to do, sir.

Q: Did he kiss you?

A: No, sir.

Q: Did he hold your breasts or nipples?

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A: No, sir.

Q: What he did only was to insert his penis in your vagina, is that what you mean?

A: Yes, sir.

COURT:

Q: Now, at that time when the accused allegedly inserted his penis to your vagina, were you already having your own periods even before that?

A: Yes, sir.

Q: Did you not get pregnant out of this incident?

A: No, sir.

Q: While he was doing the push and pull when his penis was inserted into your vagina, where was your little sister of one year which according to you, you carried upstairs.

A: She was near us, sir.

Q: Did you not cry while he was having sexual intercourse with you?

A: I cried, sir.

COURT:

Proceed, Fiscal

PROS. RABINA:

Q: Aside from informing your parents of what Orfiano delos Santos did to you, did also inform other people of that incident that happened to you? Did you tell the police?

A: Yes, sir.

Q: And also, you related the incident to the doctor, Dr. San Juan, who examined you?

A: Yes, sir."[26]

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Thus, in a clear and categorical manner completely free from any inconsistency, private complainant narrated how accused-appellant pulled her to the upstairs bedroom and forced himself upon her. She likewise narrated how, after fulfilling his bestial desires, accused-appellant then threatened her with death if she told anyone about the incident and how he gagged her with her own shorts to prevent her from shouting. We are unable to perceive any basis for ruling that the trial court committed error in convicting accused-appellant of the crime of rape on the basis of the victim's testimony.

In his defense, accused-appellant would have this Court believe that he and the victim were sweethearts who mutually consented to have sexual intercourse. But like in many other rape cases[27] where this defense was raised, the Court is not persuaded. Aside from his bare assertion and his son's corroborative testimony, accused-appellant failed to present any evidence to show that he and complainant were sweethearts. Considering that both accused-appellant and private complainant were illiterate[28], the absence of love letters is understandable. However, no other memento, picture or other such evidence was presented to prove such romantic liaison[29]. Moreover, the fact that the victim is a mental retardate makes accused-appellant's story incredible. In her deficient state of mind, she could not have possessed the capacity to understand the meaning of having such a relationship with accused-appellant.[30]

Accused-appellant next argues that assuming that private complainant Rowena Caboteja was a mental retardate, the Court gravely erred in giving weight and credence to her testimony. Considering the psychiatric evaluation made on private complainant where she was diagnosed as having a poor memory, accused-appellant argues that the trial court should have been more cautious in giving weight to the testimony of the victim considering the gravity of the accusation and its consequences for the accused.[31]

Again, we are not persuaded.

The basic test of a witness' qualification is, of course, whether he can perceive and, perceiving, can make known his or her perception to others[32]. Negatively put, Rule 130, §21 of the Revised Rules of Court provides:

> "The following persons cannot be witnesses:
>
> (a) Those whose mental condition, at the time of their production for examination, is such that they are incapable of intelligently making known their perception to others;
>
> (b) Children whose mental maturity is such as to render them incapable of perceiving the facts respecting which they are examined and relating them truthfully."

Hence, a mental retardate is not, by reason of such handicap alone, disqualified from testifying in court. 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[33]. Thus, we have in several cases[34] upheld the conviction of the accused based mainly on statements given in court by the victim who was a mental retardate.

On the ability of the private complainant to understand the nature of her testimony under oath, the trial court was satisfied with her affirmation, while under direct examination, that she understood the need to tell the truth during her testimony[35]. Moreover, the trial court had observed that the private complainant was able to answer clearly the questions propounded to her by counsels of both parties and the court; and the trial court was convinced from the manner by which she testified that she had in fact been raped by accused-appellant[36]. Well-settled is the rule that when the question of credence as to which of the conflicting versions of the prosecution and the defense where a rape was committed is in issue, the trial court's answer is generally viewed as correct and entitled to the highest respect because it is more competent to so conclude, having seen closely the way the witnesses testified, their deportment, and the peculiar manner in which they gave their testimonies and other evidence in court[37].

In sum, there is proof beyond reasonable doubt that accused-appellant Orpiano de los Santos is guilty of the crime of simple rape as charged.

The penalty of reclusion perpetua, as meted out by the trial court is in accordance with law[38]. However in addition to the award of P50,000.00 as civil indemnity made by the trial court, accused-appellant must likewise be ordered to pay the additional amount of P50,000.00 as moral damages without need of proof in accordance with prevailing jurisprudence[39].

WHEREFORE, the judgment of the trial court a quo convicting accused-appellant Orpiano de los Santos of the crime of simple rape is hereby AFFIRMED with the modification that accused-appellant is ordered to pay the private complainant Rowena Caboteja, in addition to the amount of P50,000 as civil indemnity awarded by the trial court, the sum of P50,000 as moral damages.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

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[1] Rollo, p. 9.

[2] Record, p. 28.

[3] T.S.N., May 20, 1997, pp. 11-12.

[4] Ibid, pp. 3-9.

[5] Ibid, p. 12.

[6] T.S.N., June 3, 1997, p. 3.

[7] Ibid, pp. 4-6.

[8] Exhibit "B"; Records, p. 9.

[9] T.S.N., April 29, 1997, pp. 3-5.

[10] Exhibit "A"; Records, pp. 69-74.

[11] T.S.N., May 17, 1999, pp. 5-10.

[12] Ibid, p. 17.

[13] T.S.N., July 26, 1999, pp. 6-9.

[14] T.S.N., May 11, 1999, pp. 3-9.

[15] Ibid, p. 14.

[16] T.S.N., January 11, 1999, pp. 2-6.

[17] Ibid, p. 6.

[18] Ibid, pp. 8-9.

[19] Ibid, pp. 17-18.

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[20] Decision, pp. 11-12; Rollo, pp. 30-31.

[21] 255 SCRA 403.

[22] supra.

[23] T.S.N., April 3, 1997, p. 4.

[24] Records, pp. 73-74.

[25] People vs. Andaya, 306 SCRA 202.

[26] TSN, May 20, 1997, pp. 6-9.

[27] People vs. Palma, 308 SCRA 466; People vs. Lampaza, 319 SCRA 112; People vs. Buendia, 314 SCRA 655.

[28] T.S.N., July 26, 1999, pp. 6-7.

[29] People vs. Palma. supra.

[30] People vs. Goles, 192 SCRA 663; People vs. Asturias, 134 SCRA 405; People vs. Gallano, 108 SCRA 405.

[31] Rollo, p. 69.

[32] Rule 130, Section 20. Revised Rules of Court.

[33] People vs. Balisnomo, 265 SCRA 98; People vs. Salomon, 229 SCRA 403.

[34] e.g. People vs. Padilla, 301 SCRA 265; People vs. Malapo, 294 SCRA 579.

[35] T.S.N., May 20, 1997, p. 15.

[36] Decision, p. 11; Rollo, p. 30.

[37] People vs. Erardo, 277 SCRA 643; People vs. Carson, 204 SCRA 266.

[38] Article 335, as amended by R.A. 7659, of the Revised Penal Code, the law then applicable at the time of the incident provides, in pertinent part:

> "Art. 355.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 and intimidation;
>
> 2. When the woman is deprived of reason or otherwise unconscious;
>
> 3. When the woman is under twelve years of age or is demented.
>
> The crime of rape shall be punished by reclusion perpetua.
>
> X X X"

[39] People vs. Almacin, 303 SCRA 399; People vs. Andaya, supra; People vs. Erardo, 306 SCRA 202.

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