

PEOPLE OF THE PHILIPPINES, PLAINTIFF -APPELLEE, VS. MARCIAL BAYRANTE Y BOAQUINA, ACCUSED-APPELLANT.

G.R. No. 188978. June 13, 2012

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is an appeal from the Court of Appeals' Decision[1] dated November 11, 2008 in CA-G.R. CR.-H.C. No. 02778, entitled *People of the Philippines v. Marcial Bayrante y Boaquina*, which affirmed with modification the Joint Judgment[2] dated February 7, 2007 of the Regional Trial Court (RTC) of Pili, Camarines Sur, Branch 31 in Criminal Case Nos. P-3286 & P-3287. The trial court found appellant Marcial Bayrante y Boaquina guilty beyond reasonable doubt of two (2) counts of the crime of Rape as defined and penalized under Articles 266-A and 266-B of the Revised Penal Code.

The facts of this case, as narrated in the assailed November 11, 2008 Decision of the Court of Appeals, are as follows:

On April 3, 2000, AAA[3] filed before the Municipal Trial Court (MTC) of Pili, Camarines, two (2) separate complaints against Accused-Appellant Marcial Bayrante y Boaquina for the crime of Rape. Finding probable cause that the Accused-Appellant may have committed the crimes charged, the Presiding Judge of the MTC ordered the filing of the appropriate Information(s), to which the Office of the Provincial Prosecutor concurred.

Consequently, on September 4, 2002, two (2) separate Informations were filed before the RTC charging the Accused-Appellant of two (2) counts of Rape under Art. 266-A of the Revised Penal Code, as amended by Republic Act No. 8353. The Information in Crim. Case No. P-3286, which was raffled off to Br. 31, reads:

That on or about 8:00 o'clock in the evening of February 19, 2002 at Brgy. Old San Roque, Pili, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design using force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his niece [AAA], a 20[-]year[-]old mental retardate whose mental age is 9 to 10 years of age, against her will, to her damage and prejudice.

ACTS CONTRARY TO LAW.

The other Information, which was raffled off to Br. 32 of the RTC and docketed as Crim. Case No. P-3287, is similarly worded as to date, place, the elements of the crime charged, and the persons involved, except for the time of the commission of the crime, which is at about 10:00 o'clock in the evening of February 19, 2002.

As the cases involved the same parties, cause of action, and reliefs sought, a consolidation thereof was decreed. Thereafter, the Accused-Appellant, duly assisted by counsel during the arraignment, pleaded not guilty to both charges. After the pre-trial, proceedings on the merits ensued.

The Version of the Prosecution:

AAA testified that at about 8:00 o'clock in the evening of February 19, 2002, the Accused-Appellant brought her

to Poblacion, Pili, Camarines Sur, particularly to a house, which she described to have many rooms. Thereat, the Accused-Appellant undressed her and himself, laid on top of her, and inserted his penis inside her vagina, during which she felt pain in her organ. She resisted the Accused-Appellant's ravage acts by kicking him several times, but was overcome with fear because he had a knife about five (5) inches long. After an hour or so, or at about 9:00 or 10:00 o'clock in the same evening, the Accused-Appellant again raped her by undressing her and inserting his penis into her vagina. Again, she felt pain in her vagina. Thereafter, the Accused-Appellant threatened to kill her if she told anyone about the incident.

AAA also testified, among others, that the Accused-Appellant took her away from their house in one (1) evening of February 2002 when her parents were then already asleep. They walked the streets and later rode a Palces bus in which no other passengers were on board as it was already nighttime.

BBB, mother of AAA, stated in open court that the Accused-Appellant, who had been staying in their house, is AAA's uncle because the Accused-Appellant and her husband, CCC, are first cousins. Preliminarily, BBB testified that AAA, who was born on April 16, 1982, attained an educational level of Grade 6 only because of her low comprehension and that she cannot even be relied upon to run errands as she can only follow simple instructions or tasks if well-explained to her. AAA is unlike any normal child because she cries and scampers away when there are visitors around; she has never attended any party, dance events, or any social gathering; and had poor grades in school.

BBB also testified that the Accused-Appellant disappeared in the evening of February 14, 2002, together with her daughter, AAA. She and CCC looked for their whereabouts, but located them only on February 20, 2002, in Poblacion, Pili, Camarines Sur. When they saw AAA and the Accused-Appellant standing near a market, waiting for a ride going to Manapao, Minalabac, Camarines Sur, they immediately approached and embraced AAA and took her away from the latter. Forthwith, they reported the matter to the Barangay Tanod of the place whereupon the Accused-Appellant was brought to the police station for questioning.

At home, BBB interviewed her daughter as to where the Accused-Appellant brought her, to which AAA replied that she was brought to a certain place in Pili, Camarines Sur, where the Accused-Appellant raped her twice and threatened to kill her if she told anyone about the incident. Upon learning the same, she brought AAA to Dr. Pablo B. Filio, Jr. (Dr. Filio) on the following day for a physical examination and, thereafter, to Dr. Imelda Escuadra (Dr. Escuadra) for further check-up.

Dr. Escuadra, a Medical Specialist II at the Bicol Medical Center and in charge of the Women and Children Protection Unit, particularly in the psychiatric evaluation and management of patients, is the one who conducted psychiatric and psychological tests on AAA. Dr. Escuadra testified that AAA suffers from post-traumatic stress disorder (PTSD). She also diagnosed AAA with mild mental retardation because of her intellectual quotient (IQ) of only 55, which meant that her mental age is equivalent to that of nine (9) to ten (10) – year old child. Dr. Escuadra elaborated that the psychiatric tests and psychological tests performed on AAA are different from each other because the former refers to the examination of the patient's mental capacity while the latter refers to the evaluation of the patient's intelligence quotient. She also averred that AAA was poor in arithmetic and economics; that it took her some time to answer even simple questions; that her answers were short and monosyllabic; and that AAA cooperated during the sessions only when BBB is present. Finally, Dr. Escuadra testified that AAA disclosed to her the events that transpired during the rape incident in February 2002.

Dr. Filio, an Assistant City Health Officer in Iriga City who conducted a physical examination on AAA, testified in fine that he did not find any laceration on the victim's vagina or seminal fluid inside it.

Finally, Carlos Bayrante, an uncle of the Accused-Appellant, corroborated BBB's testimony that at about 7:00

o'clock in the morning of February 20, 2002, they saw AAA and the Accused-Appellant together. He wondered why the two (2) were together, but he did not bother to ask anyway.

The Version of the Defense:

The Accused-Appellant testified that he and CCC are cousins and that he stayed in the house of the latter and his [CCC's] family since October 2001 to help in lumber-cutting. He denied forcing AAA into a relationship with him and added that during his stay with CCC's family, he courted a female neighbor with whom AAA later quarreled because [AAA] had feelings for him. He dissuaded her at first, but AAA threatened to commit suicide if they do not become sweethearts. He even consulted a friend for he entertained the idea that AAA might actually carry out her threat to commit suicide. Also, on one occasion, AAA went inside his bedroom and suggested that they should leave the place since her parents will not approve of their relationship.

The Accused-Appellant further testified that on or about February 9, 2002, he and AAA left the house, stopped by at Baao and proceeded to Pili, Camarines Sur at about 5:00 or 6:00 o'clock the following morning. They first went to his friend's house where AAA changed her clothes and, later, to his uncle's house in Minalabac, Camarines Sur, where he left AAA because he had to go back to Baao to get his own clothes. He returned to his uncle's house in the afternoon of the same day and stayed there with AAA for five (5) more days. While in Manapao, AAA suggested that they go to the office of the Barangay Captain to execute an affidavit to the effect that AAA's act of going with him was voluntary.

The Accused-Appellant further testified that he and AAA went to Old San Roque when they learned that the latter's parents were looking for them. They checked in at El Alma Hotel in Pili, Camarines Sur, where they spent the night and checked out of the following morning on February 20, 2002. In the said morning, however, when they went to the house of his cousin, William Rañon (Rañon), to pick up their personal belongings, AAA's parents were there.

Marilyn Mendoza (Mendoza) testified that she personally knows AAA as she (Mendoza) was previously introduced to her by the Accused-Appellant. The next time that she met AAA was sometime on February 12 or 13, 2002 when the Accused-Appellant requested if they could stay at her (Mendoza) parent's house. She, however, refused to entertain them because her parents will not approve of it. Thus, AAA and the Accused-Appellant stayed there only for a while.

Rañon, a Barangay Tanod in Old San Roque, Pili, Camarines Sur, testified that at about 6:30 in the morning of February 19, 2002, he was in front of the store of his relative in Old San Roque, Pili, Camarines Sur, when the Accused-Appellant arrived together with a woman (referring to AAA). He noticed that when the Accused-Appellant left some things in the store, the latter's right arm was placed on AAA's shoulder. When he saw them again at about 5:00 o'clock in the morning of the following day, in front of the public market, the Accused-Appellant's right arm was lazing on the woman's shoulder while the latter were leaning on the Accused-Appellant's shoulder. At around 7:00 o'clock in the morning of even date, BBB and her husband CCC approached him and sought his help in apprehending the Accused-Appellant on the allegation that the latter raped their daughter. As the Accused-Appellant was only about ten (10) to fifteen (15) meters away from him, he called the former and told him to place his hands on his head. He then conducted a body search, and thereafter, brought him to the police station in Pili, Camarines Sur, for an investigation. The woman, who was with the Accused-Appellant at the time, said that she will go with him at the police station because they love each other.

Barangay Captain Zenaida Regis (Brgy. Capt. Regis) of Barangay Manapao, Minalabac, Camarines Sur, testified that on February 19, 2002, the Accused-Appellant, together with AAA, came to her office requesting the preparation of an affidavit to the effect that AAA voluntarily went with the Accused-Appellant. While

interviewing AAA, Brgy. Capt. Regis noticed that it took some time for AAA to answer the question of whether or not she was forced to go with the Accused-Appellant. She qualified, however, that AAA finally answered in the negative.[4] (Citations omitted.)

After due proceedings in Criminal Case Nos. P-3286 and P-3287, the trial court found the accused-appellant guilty beyond reasonable doubt of two (2) counts of Rape that were charged against him. We quote the dispositive portion of the trial court's Joint Judgment dated February 7, 2007 here:

WHEREFORE, premises considered, Judgment is hereby rendered convicting the accused for TWO (2) Counts of RAPE and is sentenced to suffer the penalty of RECLUSION PERPETUA for each count. To pay [AAA] the amount of P50,000.00 as moral damages, the amount of P50,000.00 as civil indemnity and P25,000.00 as exemplary damages for each count, or in the total amount of P250,000.00.

With cost de oficio.[5]

Unperturbed, appellant elevated his case to the Court of Appeals but the trial court's ruling was merely affirmed with modification by the appellate court in its Decision dated November 11, 2008. The appellate court disallowed the award of exemplary damages for the reason that the same may be awarded only when one or more aggravating circumstances exist and that no such circumstance is present in the case at bar. The dispositive portion of the appellate court's Decision reads:

WHEREFORE, the assailed decision is AFFIRMED with MODIFICATION. The amount of Twenty[-]Five Thousand Pesos (Php25,000.00) as exemplary damages is DELETED. No costs.[6]

Thus, appellant interposed this appeal before this Court. He merely adopted his Appellant's Brief with the Court of Appeals and no longer filed a supplemental brief on the belief that the Appellant's Brief had adequately discussed all matters that are pertinent to his defense. In the present appeal, he put forth a single assignment of error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT WHOSE GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.[7]

In his Brief, appellant maintains that AAA was his lover and that she voluntarily eloped with him as evidenced by the affidavit she signed before Brgy. Capt. Regis. Furthermore, appellant argues that the prosecution failed to establish the mental state of AAA which is crucial to the charge that he raped a woman who is of the legal age but otherwise deprived of reason. In other words, he asserts that the prosecution was not able to prove that AAA suffers from mental retardation. For these reasons, appellant urges this Court to exculpate him from guilt.

We are not persuaded.

The provision of law pertinent in this case is Article 266-A of the Revised Penal Code, which states that:

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:

- a. Through force, threat or intimidation;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;
- 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;

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person. (Emphasis supplied.)

It is settled in jurisprudence that, under the foregoing provision of law, carnal knowledge of a woman with a mental deficiency is considered rape because such a person is not capable of giving consent to a sexual act.[8] In a recent case, we had declared that in cases of rape involving a victim suffering from mental retardation, proof of force or intimidation is not necessary, it being sufficient for the State to establish (1) the sexual congress between the accused and the victim, and (2) the mental retardation of the victim.[9]

Previously in *People v. Dalandas*,[10] we described in detail the nature of mental retardation as well as its different degrees as defined in the modern and the old intelligence quotient (IQ) scales:

Mental retardation is a chronic condition present from birth or early childhood and characterized by impaired intellectual functioning measured by standardized tests. It manifests itself in impaired adaptation to the daily demands of the individual's own social environment. Commonly, a mental retardate exhibits a slow rate of maturation, physical and/or psychological, as well as impaired learning capacity.

Although "mental retardation" is often used interchangeably with "mental deficiency," the latter term is usually reserved for those without recognizable brain pathology. The degrees of mental retardation according to their level of intellectual function are illustrated, thus:

Mental Retardation

LEVEL

DESCRIPTION TERM

INTELLIGENCE QUOTIENT (IQ RANGE)

I

Profound Below

20

II

Severe

20-35

III

Moderate

36-52

IV

Mild

53-68

A normal mind is one which in strength and capacity ranks reasonably well with the average of the great body of men and women who make up organized human society in general, and are by common consent recognized as sane and competent to perform the ordinary duties and assume the ordinary responsibilities of life.

The traditional but now obsolescent terms applied to those degrees of mental retardation were (a) idiot, having an IQ of 0-19, and a maximum intellectual factor in adult life equivalent to that of the average two-year old child; (b) imbecile by an IQ of 20 to 49 and a maximum intellectual function in adult life equivalent to that of the average seven-year old child; (c) moron or feeble-minded, having an IQ of 50 to 69 and a maximum intellectual function in adult life equivalent to that of the average twelve-year old child. Psychiatrists and psychologists apply the term “borderline” intelligence to those with IQ between 70 to 89. In *People v. Palma*, we ruled that a person is guilty of rape when he had sexual intercourse with a female who was suffering from a “borderline mental deficiency.”[11]

In the case at bar, the undisputed expert testimony of Dr. Imelda Escudra, a Medical Specialist II and officer-in-charge of the Women and Children Protection Unit at the Bicol Medical Center who personally conducted the psychiatric tests on AAA, clearly established that the victim is afflicted with mild mental retardation. She further testified that AAA was also suffering from post traumatic stress disorder (PTSD) and that AAA possesses an IQ of 55 with a mental age equivalent to that of a normal 9 to 10-year-old person.[12]

In an attempt to discredit Dr. Escudra’s testimony, appellant argued that Dr. Escudra admitted that the psychological test result was only furnished to her by the psychologist who conducted AAA’s psychological exam and that the said psychologist was not presented in court.[13] We find this argument unmeritorious. What was clear from Dr. Escudra’s testimony was that her psychiatric evaluation yielded the same diagnosis as the psychological examination with respect to the victim’s mental retardation.[14] The presentation of the psychologist who conducted the psychological examination could be dispensed with as the same would have merely been corroborative.

In any event, notwithstanding the fact that the determination of mental retardation is deeply rooted in medical psychology, we had previously ruled that evidence other than a psychometric evaluation can prove mental retardation or abnormality.[15] Furthermore, we held that mental retardation can be proved by evidence other than medical or clinical evidence, such as the testimony of witnesses and even the observation of the trial court.[16] We find no error on the part of the Court of Appeals when it likewise gave weight to the testimony of BBB (AAA’s mother) regarding AAA’s difficulties in school due to low comprehension and failure to complete even simple chores.[17]

Even assuming purely for the sake of argument that the mental retardation of the victim was not proven, we likewise uphold the appellate court in finding that AAA’s testimony adequately showed how appellant utilized force and intimidation to succeed in having carnal knowledge with her. AAA testified that she initially resisted appellant’s carnal desire but was eventually overcome by the latter because he used a knife to threaten her. At one point in her testimony, AAA could not continue with her narration of the events that transpired during the alleged rape incidents as she was overwhelmed by emotion, even weeping on the witness stand. Consequently, it was necessary for the trial court to call a recess in order to give AAA the chance to collect herself. These were evident in the following excerpts from the court transcript:

Pros. Solano:

Q – Miss Witness, sometime on February 19, 2002 at about 8:00 o’clock in the evening do you recall where were you?

A – I was at Centro Pili, sir.

Q – You are referring to Pili, Camarines Sur?

A – Yes, sir.

Q – Particularly where in Pili, Camarines Sur were you at that time?

A – In the house.

Q – Why were you in that house located at Pili, Camarines Sur on that particular date and time?

A – I was brought there by Marcial.

Q – When you said Marcial you are referring to Marcial the accused in these two (2) cases?

A – Yes, sir.

Q – By the way, have you gone to El Alma Hotel?

Atty. Obias:

No basis, your honor.

Pros. Solano:

Preliminary, your honor.

Court:

Reform.

Pros. Solano:

Q – As you were there as you said tell us what happened?

A – I was undressed.

Q – By whom?

A – By Marcial, sir.

Q – After you were undressed by Marcial, tell us what happened?

A – He got on top of me, sir.

Q – After Marcial Bayrante got on top of you as you said tell us what happened next?

Pros. Solano:

I will withdraw that question.

Pros. Solano:

Q – What happened to Marcial Bayrante when you were already undressed, what did he do, if any?

A – He also undressed himself, sir.

Q – After Marcial Bayrante undressed himself as you said, what next happened?

A – (At this juncture, the witness is crying.)

Court:

Q – Why are you crying?

A – Because I remembered what he did to me, your honor.

Q – And so tell us what did he do to you, the accused in this case?

A – (No answer.)

Court:

Continue.

Pros. Solano:

Q – You testified earlier that you were undressed by the accused and he himself undressed also and so what happened to his penis and your vagina, if any?

A – (No answer.)

Atty. Obias:

Maybe, your honor we can suspend the proceedings.

Court:

To give the private complainant witness to regain composure as she is crying and cannot answer to the question of the public prosecutor, the hearing is suspended for ten (10) minutes after which we will resume the hearing of the same.

Hearing resumed at 10:00 in the morning.

Pros. Solano:

Q – Miss witness, you testified that accused undressed you and after he undressed you he also undressed himself, what happened next, if any?

A – He inserted his penis to my vagina.

Q – So what did you feel, if any?

A – I felt painful.

Q – Now, at about 10:00 o'clock of the same night, February 19, 2002, where were you at that time?

A – I was still at the house, sir.

Q – Tell us what happened, if any?

A – Again, I was undressed by accused.

Q – After you were undressed again by the accused as you said, what else happened, if any?

A – Again he inserted his penis to my vagina.

Q – Again, what did you feel?

A – It was painful, sir.

Q – If you can estimate the penis of the accused inserted to your vagina on February 19, 2002 at Pili, Camarines Sur as you can estimate these two (2) insertion was made by the accused?

A – (No answer.)

Q – Now, after the accused inserted his penis to your vagina at 8:00 o'clock on February 19, 2002 in that

house, what happened as you said was painful?

A – I got pregnant, sir.

Q – And what happened to your pregnancy?

A – And so I gave birth to a baby girl.

Q – Do you know the name?

A – Yes sir, Jose.

Court:

Q – Where is now the child?

A – He died.

Q – When did your child died?

A – Right after my delivery, your honor.

Court:

Continue.

Pros. Solano:

Q – Do you have any death certificate?

A – Yes sir, I have. (At this juncture, the witness is producing her birth certificate.)

Q – And so, as far as you can recall miss witness during these two (2) incidents that the penis of the accused inserted to your vagina, did you not resist?

A – Yes, sir.

Q – And what happened to your resistance?

A – I was afraid.

Q – Why were you afraid?

A – Because he had with him a knife.

Q – What kind of knife, how long was it?

A – (At this juncture, the witness is demonstrating the length of the knife which is about five (5) inches long including the handle.)

Court:

Q – You said that you resisted how did you resist?

A – (No answer.)

Q – You said that when the accused inserted his penis to your vagina, how were you resisted?

A – I was kicking at him, your honor.

Q – Was he hit when you kicked him?

A – Yes, your honor.

Q – How many times did you kick him?

A – Many times, your honor.

x x x x

Court:

Q – You said that you were raped, do you recall where was that house where... you were brought by the accused located?

A – There at Pili, Camarines Sur.

Q – Do you know who owns that house?

A – No, your honor.

Q – Can you describe that house?

A – Plenty of rooms, your honor.

Q – Does it has name?

A – I was not able to see, your honor.

Q – And you said you bore a child that died right after you gave birth tell us the father of your child?

A – (At this juncture, the witness is pointing to a man who when asked his name responded as Marcial Bayrante.)[18]

In *People v. Manjares*,^[19] we reiterated the basic principles that:

In a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing, and consistent with human nature and the normal course of things, as in this case. There is a plethora of cases which tend to disfavor the accused in a rape case by holding that when a woman declares that she has been raped, she says in effect all that is necessary to show that rape has been committed and, where her testimony passes the test of credibility, the accused can be convicted on the basis thereof. x x x.

That the victim suffers from a mental abnormality or deficiency would not detract from the reliability of her testimony. We observed in a similar case that:

While it is true that the credibility of one who is a mental retardate may be difficult to determine, still, it can be ascertained by deducing from the manner she testifies in court as to the surrounding facts of the crime committed. For as long as her testimony is straightforward, candid and unflawed by inconsistencies or contradictions in its material points, and her demeanor is consistent with one who has been a victim of rape, bolsters her credibility with the verity born[e] out of human nature and experience, thus, must be given full faith and credit.

Moreover, mental retardation per se does not affect credibility. A mentally retarded [person] may be a credible witness. The acceptance of her testimony depends on the quality of her perceptions and the manner she can make them known to the court.[20]

In *People v. Arpon*,^[21] we discussed the jurisprudential principle of affording great respect and even finality to the trial court's assessment of the credibility of witnesses:

Time and again, the Court has held that when the decision hinges on the credibility of witnesses and their

respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality. The trial judge has the advantage of observing the witness' deportment and manner of testifying. Her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" are all useful aids for an accurate determination of a witness' honesty and sincerity. The trial judge, therefore, can better determine if witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where said findings are sustained by the [Court of Appeals].[22]

We further agree with the Court of Appeals that AAA's emotional outburst on the witness stand strengthens the trustworthiness of her testimony. According to jurisprudence, the crying of a victim during her testimony is evidence of the credibility of the rape charge with the verity borne out of human nature and experience.[23]

In a seemingly desperate effort to secure an acquittal, appellant maintains that the alleged rape could not have occurred because both he and AAA were lovers. In other words, he proffers the "sweetheart theory" as a defense but his assertion is bereft of substantial proof. The appellate court did not err in finding that the testimony of the witnesses presented by appellant utterly failed to satisfactorily prove the alleged romantic relationship.

Witness Marilyn Mendoza's testimony revealed that it was only appellant who claimed that AAA was his sweetheart and that AAA never spoke to her much less told her that both she and appellant were romantically involved with each other.[24] Likewise, witness William Rañon's testimony is afflicted with the same infirmity. He merely averred that he saw appellant's arm on AAA's shoulder and from that fact assumed that they had a relationship. Still he admitted in open court that he had no personal knowledge of the purported love affair between appellant and AAA.[25]

Neither could the purported affidavit signed by AAA before Brgy. Captain Regis be relied upon by appellant. All that the affidavit stated was that AAA "voluntarily went with [appellant]"[26] but such statement does not preclude that any sexual relation between them was not consensual. Moreover, given AAA's mental state, it was highly doubtful that she understood the significance of the affidavit that she signed or that she signed it voluntarily. We note, too, Brgy. Captain Regis's testimony that (a) it was appellant who insisted on the execution of the affidavit[27] and (b) the reason AAA was asked to sign the affidavit was so that appellant would have no responsibility or liability as regards AAA.[28]

We have previously held that:

For the ["sweetheart"] theory to prosper, the existence of the supposed relationship must be proven by convincing substantial evidence. Failure to adduce such evidence renders his claim to be self-serving and of no probative value. For the satisfaction of the Court, there should be a corroboration by their common friends or, if none, a substantiation by tokens of such a relationship such as love letters, gifts, pictures and the like.[29]

Significantly, this Court has decreed that even if the alleged romantic relationship were true, this fact does not necessarily negate rape for a man cannot demand sexual gratification from a fiancée and worse, employ violence upon her on the pretext of love because love is not a license for lust.[30]

As to the civil liability, we affirm the trial court's award of Fifty Thousand Pesos (P50,000.00) as civil indemnity and another Fifty Thousand Pesos (P50,000.00) as moral damages for each count of simple rape that appellant had been proven to have committed. However, we disagree with the Court of Appeal's decision to delete the trial court's award of exemplary damages in the amount of Twenty-Five Thousand Pesos (P25,000.00).

In consonance with prevailing jurisprudence on simple rape wherein exemplary damages are awarded in order to

set a public example and to protect hapless individuals from sexual molestation, we agree with the trial court regarding the propriety of the award of exemplary damages but increased the same from Twenty-Five Thousand Pesos (P25,000.00) to Thirty Thousand Pesos (P30,000.00).[31]

WHEREFORE, premises considered, the Decision dated November 11, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02778 is hereby AFFIRMED with MODIFICATIONS, to wit:

(1) Appellant Marcial Bayrante is ordered to pay Thirty Thousand Pesos (P30,000.00) as exemplary damages for each count of SIMPLE RAPE, and

(2) Appellant Marcial Bayrante is further ordered to pay the private offended party interest on all damages awarded at the legal rate of six percent (6%) per annum from the date of finality of this judgment.

No pronouncement as to costs.

SO ORDERED.

Bersamin, Del Castillo, Villarama, Jr., and Perlas-Bernabe,[**] JJ., concur.
Leonardo-De Castro,[*] J., (Acting Chairperson).

[*] Per Special Order No. 1226 dated May 30, 2012.

[**] Per Special Order No. 1227 dated May 30, 2012.

[1] Rollo, pp. 2-22; penned by Associate Justice Normandie B. Pizarro with Associate Justices Edgardo P. Cruz and Fernanda Lampas Peralta, concurring.

[2] CA rollo, pp. 20-29.

[3] In compliance with the rulings of this Court in *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006, 502 SCRA 419) and *People v. Ching* (G.R. No. 177150, November 22, 2007, 538 SCRA 117), applying provisions of Republic Act No. 7610, Republic Act No. 9262 and the Rule on Violence Against Women and Their Children (A.M. No. 04-10-11-SC), the Court of Appeals withheld the real names of the victim and members of her immediate family and replaced them with initials.

[4] Rollo, pp. 3-11.

[5] CA rollo, p. 29.

[6] Rollo, p. 21.

[7] CA rollo, p. 50.

[8] *People v. Butiong*, G.R. No. 168932, October 19, 2011.

[9] *Id.*

[10] 442 Phil. 688 (2002).

[11] *Id.* at 695-696.

[12] TSN, August 8, 2003.

[13] CA rollo, p. 60.

- [14] TSN, August 8, 2003, p. 6.
- [15] *People v. Almacin*, 363 Phil. 18, 28 (1999).
- [16] *People v. Dumanon*, 401 Phil. 658, 669-670 (2000).
- [17] Rollo, p. 14.
- [18] TSN, March 16, 2004, pp. 6-13.
- [19] G.R. No. 185844, November 23, 2011, citing *People v. Felan*, G.R. No. 176631, February 2, 2011, 641 SCRA 449, 452 and *People v. Bongat*, G.R. No. 184170, February 2, 2011, 641 SCRA 496, 505-506.
- [20] *People v. Tamano*, G.R. No. 188855, December 8, 2010, 637 SCRA 672, 685.
- [21] G.R. No. 183563, December 14, 2011, citing *People v. Condes*, G.R. No. 187077, February 23, 2011, 644 SCRA 312, 322-323.
- [22] *Id.*
- [23] *People v. Atadero*, G.R. No. 183455, October 20, 2010, 634 SCRA 327, 342.
- [24] TSN, June 29, 2006, pp. 16-20.
- [25] TSN, May 6, 2005, pp. 14-16.
- [26] CA rollo, p. 69.
- [27] TSN, August 16, 2005, pp. 9 and 16.
- [28] *Id.* at 24-25.
- [29] *People v. Dahilig*, G.R. No. 187083, June 13, 2011, 651 SCRA 778, 788.
- [30] *People v. Dumadag*, G.R. No. 176740, June 22, 2011, 652 SCRA 535, 548.
- [31] See *People v. De la Paz*, G.R. No. 182412, November 28, 2011; *People v. Aguilar*, G.R. No. 185206, August 25, 2010, 629 SCRA 437, 450.

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