

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NGUYEN DINH NHAN, ACCUSED-APPELLANT.

G.R. No. 93433. August 05, 1991

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-93433/>

GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court, Branch 48, Puerto Princesa City, Palawan, the dispositive portion of which reads:

"WHEREFORE, the court finds the accused Nguyen Dinh Nhan guilty beyond reasonable doubt of the crime of rape defined and penalized under Act. 335 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua with the accessory penalty and to pay the cost of the suit. The accused is further ordered to indemnify the complainant Tran Thi Thuc Doan the sum of P12,000.00 without subsidiary imprisonment in case of insolvency." (Records, p. 80)

The criminal complaint filed against the accused states:

"That on or about the 1st day of September 1989, and/or prior thereto, at VRCPPFAC, Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, with the use of force and intimidation and while armed with a knife did then and there wilfully, unlawfully and feloniously have carnal knowledge with Tran Thi Thuc Doan, 17 years old and mentally retarded, without the consent and against the will of the latter." (Records, p. 1)

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is as follows:

xxx xxx xxx

"On September 1, 1989 on or about 8:00 o'clock in the evening, Tran Thi Thuc Doan, a mentally retarded Vietnamese refugee came home at House No. 6 Zone 8 from the temple. The accused, a friend of a certain Mr. Khan, also living in the quarters was there. He appeared to be drunk and requested Mr. Khan to massage his body. Instead of doing it himself, Khan requested complainant to do the massaging. While she was massaging the accused the latter fell asleep. On that evening the accused laid on top of her, pulled down her panty and inserted his private parts inside her vagina causing pain on the complainant. At that time Mr. Khan and Miss Ha were then sleeping. When complainant shouted, Mr. Khan asked the accused what he was doing to her. The accused stepped on her chest to stop her from answering further. After the sexual assault the accused slept. The following day, September 2, 1989 complainant went to Dr. Socorro Gonzaga. Accordingly, the latter conducted a medical examination on the subject, findings of which are duly embodied in a medical certification (Exh. "A") reading as follows:

‘Pertinent P.E. Findings:

- vaginal oz (+) blood, admits 2 fingers
- vaginal canal (+) blood

- fresh laceration noted at 3:00 position-about 3 cm. long

- vaginal smear requested: Result attached:

(+) some spermatozoa seen'

"On the witness stand, Dr. Socorro Gonzaga, Medical Coordinator at the Philippine First Asylum Camp of Vietnamese Refugees, affirmed that she medically examined the complainant. Complainant has (sic) sort of familiar to Dr. Gonzaga because she had previous medical treatment from her. The doctor described the patient-complainant as short in stature and handicapped. The medical examination conducted on September 2, 1989 revealed that the presence of fresh laceration and spermatozoa inside the vagina would conclude that patient underwent sexual intercourse within 24 or 48 hours prior to examination.

"Another witness for the prosecution, Caroline McClure, a social worker at the Community and Family Services International (CFSI) with office located at Philippine First Asylum Camp testified that Tran Thi Thuc Doan was a regular client of hers since her arrival at the Camp from Vietnam for suspicion of being mentally handicapped. As directed to her by the doctor, Doan was further referred to Sonia P. Margallo, a resident psychologist for psychological test who submitted a report (Exh. "C") with the following findings:

'Doan's current general mental functioning appears to be on the lower mild retardation range, with the probable mental age of a 7-year old.

She is capable of learning up to approximately 4th to 5th grade school level. Completely trainable, Doan can benefit from vocational skills training involving use of the hands, but not finer motor skills like embroidery.'

"On September 2, 1989, Sis Lucy, the Camp's midwife reported that Doan had been sexually abused. Hence, complainant was submitted for medical examination to Dr. Gonzaga. Ms. McClure assisted Doan in filing of this complainant against the accused." (Rollo, pp. 15-17; Records, p. 78)

"Tran Thi Thuc Doan, the complainant testified that on September 1, 1989 on or about 8:00 o'clock in the evening, she went to her quarters, House No. 6 Zone 8 from the temple. The accused, Mr. Nhan was inside her quarters, with Mr. Khan and Miss Ha. When the accused asked Mr. Khan to massage his body, the latter requested her to do the massage. She massaged the body of the accused till he fell asleep. While she was about to sleep, the accused laid on top of her, removed her panty and inserted his private part inside her vagina. She felt pain and she shouted. Mr. Khan asked Nhan what he was doing and why she shouted, Nhan stepped on her chest, after which the accused slept. The following morning, she saw Dr. Socorro Gonzaga for examination." (Rollo, p. 17)

The version of the defense, on the other hand, is as follows:

xxx xxx xxx

"xxx[a]ccused Nguyen Dinh Nhan denied having sexually molested Doan on September 1, 1989, as he was selling bread at the time of the alleged commission of the offense but he admitted that he stayed and slept in House No. 6 Zone 8 on or about 11:00 o'clock in the evening and that time the people in the house were Tuc, Vu, Khan and Ha. He slept at the lower level of the house with Khan and Ha. He said he did not see Doan on September 1, 1989. When asked about the accusation against him, he denied having committed the act on September 1, 1989 but admitted that he had sexual intercourse with Doan on July 24, 1989 at about 9:30 or 10:00 o'clock in the evening in that house after giving him the massage. He was drunk at that time she massaged his back ending up (sic) sexual intercourse with her. He did not force the complainant to consummate the act. However, he admitted that the complainant is physically and mentally handicapped. When confronted with a letter (Exh. "E") addressed to complainant, he admitted having sent the same to her." (Rollo, p. 17)

The appellant raises the following assignment of errors, to wit:

I

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE PSYCHOLOGICAL REPORT (EXH. "C") DATED JULY 31, 1989 IS A HEARSAY EVIDENCE AND HAS THEREFORE NO PROBATIVE VALUE.

II

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE PSYCHOLOGICAL REPORT (EXH. "C") IS INADEQUATE AND SPECULATIVE AS IT DOES NOT CONFORM WITH THE UNIVERSALLY ACCEPTED PSYCHIATRIC YARDSTICK.

III

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE COMPLAINANT IS NOT DEPRIVED OF REASON AND THEREFORE THE CASE IS BEYOND THE AMBIT OF ART. 335 PARAGRAPH 2 OF THE REVISED PENAL CODE.

IV

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE PROSECUTION'S EVIDENCE IS NOT SUFFICIENT TO WARRANT THE CONVICTION OF THE ACCUSED BEYOND REASONABLE DOUBT." (Appellant's Brief, p. 3)

According to Article 335 of the Revised Penal Code, rape is committed by having carnal knowledge of a woman under any of the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; (3) when the woman is under twelve years of age, even though neither of the circumstances mentioned above are present.

In the case at bar, the trial court convicted Nguyen Dinh Nhan, the accused-appellant, for rape under the second circumstance. The trial court found that the complainant, Tran Thi Thic Doan was a woman deprived of reason as she is a mental retardate.

The appellant adopts a two-pronged defense. His first defense is premised on the exclusion of the psychological report. He argues that without the said report, there is then no evidence establishing the complainant's mental retardation.

But on the off chance that the psychological report confirming the complainant's mental retardation will be admitted, his second defense is based on the argument that the deprivation of reason mentioned in Article 335 paragraph 2 of the Revised Penal Code means complete deprivation of reason. The complainant, then, does not fall under said category as she is not one completely deprived of reason.

The appellant's first defense is contained in the first two assigned errors. The appellant questions the admissibility and the adequacy of the psychological report (Exh. "C") upon which the trial court anchored its findings that the complainant is a mental retardate. As to its admissibility, he contends that the psychological report is hearsay, thus, has no probative value. As to its adequacy, he states that the report is the product of tests which are not in accordance with universally accepted procedures in ascertaining the mental condition of the person.

There is no need to delve on the adequacy of the psychological report as it is true that without presenting Sonia Margallo, the psychologist who prepared the questioned report as a witness, the said report is hearsay evidence (Rule 130, Sec. 36, Revised Rules on Evidence; US V. Lorenzana, 12 Phil., 64, 70 [1908]). The

accused-appellant is entitled to cross-examine the psychologist who made the report. Without such examination the accused would be deprived of his right to confront and examine the witnesses against him.

On this basis, the appellant, in his fourth assigned error, contends that without the psychological report, there is no sufficient evidence to support his conviction beyond reasonable doubt. He adds that no other evidence were adduced that touch on the mental capacity of the complainant.

The appellant's contention this time, is without merit.

Upon a close perusal of the records, we find that contrary to appellant's contention, there is enough evidence to support the appellant's conviction. The complainant's mental condition was amply established despite the non-admission of the psychological report, by the testimonies of the prosecution witnesses, Socorro Gonzaga and Caroline McClure and by the testimony of the appellant himself.

Socorro Gonzaga, a doctor of medicine, testified that she had examined Doan several times before the rape incident, (TSN, November 8, 1989, p. 8) hence, she had ample opportunity to observe her behavior. In fact, after her very first examination of the complainant she recommended that the complainant be psychologically examined as she suspected her to be a handicap case. (TSN, November 8, 1989, p. 8) In her testimony she positively declared that Doan is mentally retarded. (TSN, November 8, 1989, p. 11).

Caroline McClure, a social worker of the Community and Family Services International (C.F.S.I) at the Vietnamese Refugees Center, (the camp where complainant and appellant were staying) likewise, testified that Doan is mentally handicapped (TSN, November 9, 1989, p. 2) Although McClure admitted that she is not a psychologist, (TSN, November 9, 1989, p. 6) she is still in a position to know the mental condition of the complainant as she has known the complainant ever since May 18, 1989, the date of the arrival of the complainant at the center. The complainant was a regular client of the C.F.S.I precisely because of her mental condition. (TSN, November 9, 1989, p. 2) It was also due to Doan's mental condition that McClure had to assist her in filing the complaint. (TSN, November 9, 1989, p. 5)

However, it was the appellant's own testimony which created the greatest damage to his defense. The appellant admitted in open court that he knew that the complainant is mentally and physically handicapped. (TSN, December 12, 1989, p. 6)

Rule 129, Sec. 4 of the Revised Rules of Evidence states that:

"Sec. 4. Judicial admissions. - An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made."

There was no showing that the admission was made through palpable mistake. The appellant cannot deny that he made such an admission. Therefore, he cannot say that there was no evidence which dwelled on the mental capacity of the complainant when he himself admitted to that lack of mental capacity.

In fact, the knowledge of the appellant about the mental condition of the complainant might have emboldened him to commit the despicable act.

Having established that the complainant is a mental retardate, the second defense of the appellant now comes into play.

In the third assigned error, the appellant claims that a woman "deprived of reason" as used in Article 335, paragraph 2 of Revised Penal Code should be construed as one completely deprived of intelligence. It was the claim of the prosecution that the complainant is only an imbecile or a woman suffering from mental weakness,

hence, she could not be categorized as a woman "deprived of reason."

This claim must fail.

The Supreme Court cases of *People v. De Jesus*, 129 SCRA 4, 8-9 [1984] and *People v. Atento*, G.R. No. 84728, April 26, 1991 have adopted the ruling in *People v. Daing*, CA-G.R. No. 6366-R, March 6, 1953, 49 O.G. 2331, 2338 (June 1953) which states:

"The deprivation of reason contemplated by law does not need to be complete. Mental abnormality or deficiency is enough. So it was held by the Supreme Court of Spain that a man having carnal knowledge of a woman whose mental faculties are not normally developed or who is suffering from hemiplegia and mentally backward or who is an idiot commits the crime of rape. (Sentences of November 19, 1930, May 11, 1932 and June 24, 1935)

Whatever term may describe the complainant, be it an imbecile or a woman suffering from mental weakness, there is no question about her mental retardation. The complainant's abnormality stuck out like a sore thumb at the center. Her behavior as a mental retardate was so obvious that even the appellant who is not a man of science concluded that she was mentally handicapped. Her being a regular client of the C.F.S.I. shows that she had to be assisted and guided unlike a normal 17 year old girl.

Moreover, no motive can be ascribed to the complainant other than a desire for justice and redress for a terrible wrong. (See *People v. Puedan*, G.R. No. 92586, April 26, 1991; *People v. Doctolero*, G.R. No. L-34386, February 7, 1991) She was a Vietnamese refugee, mentally retarded, inexperienced in the ways of the world. It is highly improbable that she would fabricate matters and impute the crime unless it was true. (See *People v. Gerones*, G.R. No. 91116, January 24, 1991)

WHEREFORE, the decision appealed from is AFFIRMED with the modification that the indemnity to the offended party is increased to P30,000.00.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Davide, Jr., JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.