Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff and Appellee,

- *versus* -

LEONARDO CATAYTAY *y* SILVANO,
Accused-appellant.

G.R. No. 196315

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

OCT 22 2014

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DECISION

LEONARDO-DE CASTRO, *J.*:

This is an Appeal[1] from the Decision[2] of the Court of Appeals in CA-G.R. CR No. 32275 dated August 11, 2010 affirming the conviction of accused-appellant Leonardo Cataytay *y* Silvano for the crime of rape.

Accused-appellant Cataytay was charged of said crime in an Information dated September 9, 2003:

> That on or about the 07[th] day of September 2003, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs[,] and by means of force and intimidation, did, then and there willfully, unlawfully, and feloniously have carnal knowledge [of AAA],[3] 19 years of age but with a mental age of a 5 year old, hence, a retardate, or demented, which is known to accused at the time of the commission of the offense, against her will and consent and to her damage and prejudice.[4]

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1 *Rollo*, p. 17-18.

2 Id. at 2-16; penned by Associate Justice Apolinario D. Bruselas, Jr. with Associate Justices Mario L. Guariña III and Rodil V. Zalameda, concurring.

3 The Court withholds the real name of the victim-survivor and uses fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate families or household members, are not to be disclosed. (See *People v. Cabalquinto*, 533 Phil. 703 [2006].)

4 Records, p. 1.

Accused-appellant Cataytay entered a plea of not guilty at his arraignment on October 3, 2003. Trial thereafter ensued.

BBB (AAA's mother) testified that she knew accused-appellant Cataytay as her neighbor in their compound in Mandaluyong City. Accused-appellant was a shoe repairman who had a shop six houses away from BBB's house.[5]

On September 7, 2003, at around 6:30 p.m., BBB left AAA in their house to look for BBB's youngest daughter. Thirty minutes later, when she reached the bridge near Block 37, her neighbor, Lito, told her that there was a problem, and brought her to the *barangay* outpost. AAA and the accused-appellant were already at the outpost. Lito told the persons at the outpost that she was the mother of the victim. When BBB saw AAA, the latter told her, "*Mommy, ni-rape po ako*." BBB asked her who raped her. AAA responded by pointing to accused-appellant. During the interviews made by the *barangay* officials, AAA narrated how she was raped by accused-appellant, which ended when a certain "Mimi" knocked at the door. When accused-appellant answered the knock, Mimi told the former that she will shout if he does not leave the house. AAA went out of the house and sought help from their neighbors. One of their neighbors, Amelita Morante, called the *barangay* officials at the outpost.[6]

BBB identified a Psychological Evaluation Report from the Department of Social Welfare and Development (DSWD) dated May 25, 1999, which was conducted in connection with another rape case. The report stated that AAA had the mental capacity of an eight-year-old child.[7] BBB also identified AAA's birth certificate which showed that she was biologically 19 years old at the time of the incident.[8]

On cross-examination, BBB confirmed that AAA was the victim in a rape case in 1999 against a certain Norberto Lerit. BBB admitted that she did not personally witness the alleged rape committed by the accused-appellant.[9]

When **AAA** appeared as the second witness for the prosecution, the prosecution manifested that by merely looking at her, it was apparent that she was mentally retardate.[10] AAA, who was crying while being asked questions, testified that she was raped by accused-appellant by inserting his penis into her, despite her protestations. After the deed, she was given money by accused-appellant. She knew the accused-appellant before the incident as a shoe repairman.[11]

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5 TSN, April 27, 2004, pp. 3-4.
6 Id. at 4-12.
7 Id. at 7.
8 Id. at 13.
9 TSN, May 25, 2004, pp. 2-14.
10 TSN, June 22, 2004, p. 3.
11 Id. at 6-7, 10.

DSWD Social Worker Arlene Gampal testified that she referred AAA to the National Center for Mental Health (NCMH) for psychological examination. She also conducted a Social Case Study upon AAA in relation to the incident of sexual abuse at the hands of the accused.[12] **NCMH Psychologist Susan Sabado** was presented as a prosecution witness, but her testimony was dispensed with when the defense agreed to a stipulation regarding her expertise and that the tests conducted on AAA affirmed that the latter had a mental capacity of a seven-year-old child.[13]

Police Chief Inspector (PC/Insp.) Bonnie Chua, the medico-legal officer who examined AAA on September 8, 2003 was likewise presented as a prosecution witness. The defense agreed to a stipulation that the findings of the examination were consistent with recent sexual intercourse.[14]

For the defense, **accused-appellant** testified that on September 7, 2003, at around 7:00 p.m., he was in his house together with his brother, feeding his four-year-old daughter. He then went out and proceeded to a *videoke* bar, which was around 20 meters from his house.[15] He stayed at the *videoke* bar for less than 15 minutes, as *barangay* officers suddenly arrived and arrested him. Upon asking why he was being arrested, the officers told him that he was the suspect in the rape of AAA. He was brought to the Barangay Hall, where he denied the accusations against him. He estimated that the house of BBB was more or less 50 meters away from his house,[16] and that it would take more or less a one minute walk from the *videoke* bar to the house of AAA.[17] Accused-appellant admitted that by merely looking at AAA, he could tell that she has a mental disability.[18]

Accused-appellant's brother, **Jose Fresco Cataytay (Jose)**, testified that at 6:30 p.m. of September 7, 2003, accused-appellant was inside their house feeding his daughter. At around 7:00 p.m., accused-appellant told Jose that he will go to the *videoke* bar, which was around 30 meters away from their house. Accused-appellant stayed in the *videoke* bar for 5 to 10 minutes, then went back to their house and watched television. Accused-appellant was arrested that night within the vicinity of their house by the *barangay tanods*. He estimated that AAA's house is 20 to 30 meters away from the *videoke* bar, and that it would take less than five minutes to reach the house of AAA from the *videoke* bar.[19]

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12 TSN, December 17, 2004, pp. 3-7.
13 TSN, August 4, 2005, p. 5.
14 TSN, November 14, 2005, pp. 4-5.
15 Accused-appellant stated in the direct examination that the *videoke* bar was **more** than 20 meters away from his house. On cross-examination, he testified that the *videoke* bar was **more or less** 20 meters away from his house (TSN, November 20, 2006, p. 3).
16 TSN, October 30, 2006, pp. 2-5.
17 TSN, November 20, 2006, p. 4.
18 Id. at 7.
19 TSN, May 24, 2007, pp. 4-9.

Alicia Panaguitol (Alicia), a neighbor of AAA and accused-appellant, testified that she lives two meters away from AAA's house and 60 meters away from that of accused-appellant. She was inside her house at around 7:00 p.m. of September 7, 2003, during which time she heard AAA shouting that she was raped. She asked AAA who raped her. AAA replied "Pilay," apparently referring to their neighbor who was called Jun Pilay. Alicia saw Jun Pilay run from AAA's house towards a dark area.[20]

On February 5, 2009, the RTC rendered its Judgment finding accused-appellant guilty as charged, and disposing of the case as follows:

> WHEREFORE, foregoing premises considered, accused LEONARDO CATAYTAY y SILVANO is hereby found GUILTY beyond reasonable doubt for the crime of rape against one [AAA] defined and penalized under Article 266-A, paragraph 1 of the Revised Penal Code in relation to Article 266-B paragraph 10 of the same Code.
>
> As a consequence thereof, accused LEONARDO CATAYTAY y SILVANO is hereby sentenced to suffer the penalty of imprisonment of from TWENTY YEARS (20) and ONE (1) DAY to FORTY (40) YEARS of *reclusion perpetua*.
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> Further, accused LEONARDO CATAYTAY y SILVANO is hereby ordered to indemnify the victim [AAA], the amount of SEVENTY FIVE THOUSAND PESOS (₱75,000.00) as and by way of moral damages and SEVENTY FIVE THOUSAND PESOS (₱75,000.00) by way of exemplary damages.
>
> Finally, the period of detention of accused LEONARDO CATAYTAY y SILVANO at the Mandaluyong City Jail is hereby fully credited to his account.[21]

The case was elevated to the Court of Appeals, where it was docketed as CA-G.R. CR No. 32275. On August 11, 2010, the Court of Appeals rendered the assailed Decision, the dispositive portion of which reads:

> **WHEREFORE**, in the light of the foregoing, the instant appeal is **DENIED**. The decision appealed from is AFFIRMED with the MODIFICATIONS that an additional award of ₱75,000.00 as civil indemnity is granted to the victim and the award of exemplary damages of ₱75,000.00 is reduced to ₱30,000.00. The penalty of imprisonment to be served is simply *reclusion perpetua*.[22]

Hence, this appeal, where accused-appellant Cataytay adopted his Appellant's Brief with the Court of Appeals, which contained the following assignment of errors:

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20 TSN, March 27, 2008, pp. 2-5.
21 CA *rollo*, p. 33.
22 *Rollo*, p. 16.

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FACT THAT HE WAS ILLEGALLY ARRESTED.[23]

In his appellant's brief, accused-appellant claims that BBB's testimony concerning the details of the commission of the rape as narrated by AAA is hearsay and therefore has no probative value. Accused-appellant also points out that the Psychological Evaluation Report dated May 25, 1999 and Psychological Report dated June 29, 2009 illustrate that AAA can be easily influenced.

At the outset, we agree with accused-appellant that the details concerning the manner of the commission of the rape, which was merely narrated by AAA at the *barangay* outpost, is hearsay and cannot be considered by this Court. A witness can testify only on the facts that she knows of his own personal knowledge, or more precisely, those which are derived from her own perception.[24] A witness may not testify on what she merely learned, read or heard from others because such testimony is considered hearsay and may not be received as proof of the truth of what she has learned, read or heard.[25]

Notwithstanding the inadmissibility of the details of the rape which BBB merely heard from AAA's narration, we nevertheless find no reason to disturb the findings of fact of the trial court. Despite lacking certain details concerning the manner in which AAA was allegedly raped, the trial court, taking into consideration the mental incapacity of AAA and qualifying her to be a child witness,[26] found her testimony to be credible and convincing:

Q- Uulitin ko sa iyo 'yung unang tinanong ko sa'yo ha, bakit ka nandito sa office ni Judge, para ano?
A - Para magsumbong.

Q - Sinong isusumbong mo?
A - Leonardo Cataytay.

INTERPRETER:

Witness at this moment is now crying.

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23 CA *rollo*, p. 69.
24 Rules of Court, Rule 130, Section 36.
25 *D.M. Consunji, Inc. v. Court of Appeals*, 409 Phil. 275, 285 (2001); *Miro v. Mendoza Vda. De Erederos*, G.R. Nos. 172532 & 172544-45, November 20, 2013, 710 SCRA 371, 390.
26 TSN, June 22, 2004, pp. 3-4.

Q - Nandito ba si Leonardo Cataytay, [AAA], nandito ba siya ngayon sa office ni Judge? Tingin ka sa office ni Judge kung nandito ngayon si Leonardo, sabi mo isusumbong mo siya kay Judge, diba?

COURT:

Ituro mo nga kung nandiyan siya, sige.

INTERPRETER:

Witness pointed to the male person seated in the first row of the gallery, wearing white t-shirt, who when asked to identify himself, answered to the name of LEONARDO CATAYTAY Y SILVANO.

PROS. LAZARO:

Q- [AAA], itinuro mo si Leonardo, sabi mo kanina isusumbong mo siya, bakit mo siya isusumbong, anong ginawa niya sa'yo?
A- Ni-rape po ako.

Q- Ilang beses ka niya ni-rape?
A- Isa lang po.

Q- Papaano ka niya ni-rape?
A- Pinasok niya 'yung ari niya sa akin.

Q- Anong sinabi mo sa kanya 'nung ni-rape ka niya, anong sinabi mo kay Leonardo?
A- Ayaw ko na po.

Q- Anong sinabi naman ni Leonardo habang nire-rape ka niya?
A- Wag daw po ako maingay.

Q- Kasi pag maingay ka, ano daw ang gagawin sa'yo?
A- Uulitin daw niya po.

Q- Anong sinabi ni Leonardo sa'yo pagkatapos ka niyang ni-rape, [AAA]? May sinabi sa'yo pagkatapos ka niya ni-rape? Meron o wala?
A- Wala po.

Q- May binigay sya sa'yo?
A- Opo.

Q- Anong binigay niya? Punasan mo ang luha mo.
A- Pera po.

Q- Alam mo kung magkano?
A- Hindi po.[27]

AAA's mental condition may have prevented her from delving into the specifics of the assault in her testimony almost three years later, unlike

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[27] Id. at 5-7.

the way she narrated the same when she was asked at the *barangay* outpost merely minutes after the incident. However, as we have ruled in a litany of cases, when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed. Youth and, as is more applicable in the case at bar, immaturity are generally badges of truth.[28] Furthermore, the report of PC/Insp. Chua that the findings of the physical examination were consistent with recent sexual intercourse, provide additional corroboration to the testimonies of AAA and BBB. It should be noted that this report was stipulated upon by the prosecution and the defense.

We have pronounced time and again that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail.[29] For the defense of alibi to prosper, it must be sufficiently convincing as to preclude any doubt on the physical impossibility of the presence of the accused at the *locus criminis* or its immediate vicinity at the time of the incident.[30] In the case at bar, accused-appellant and his brother, second defense witness Jose, claim that the former was taking care of his daughter in his house at around 7:00 p.m. of September 7, 2003. He then went out and proceeded to a *videoke* bar, which was merely 20 meters away from his house. Accused-appellant and his brother admitted that their house was merely 50 meters away, or around a one-minute walk, from the house of AAA, where the alleged incident occurred. Accused-appellant was therefore clearly in the immediate vicinity of the *locus criminis* at the time of the commission of the crime, and thus accused-appellant's defense of alibi must fail.

Other than alibi and denial, accused-appellant presented the testimony of Alicia, a neighbor of AAA and accused-appellant, to prove that another person raped AAA. However, the record is clear that AAA positively identified accused-appellant as the culprit both at the *barangay* outpost minutes after the incident, and in open court. It is furthermore axiomatic that when it comes to evaluating the credibility of the testimonies of the witnesses, great respect is accorded to the findings of the trial judge who is in a better position to observe the demeanor, facial expression, and manner of testifying of witnesses, and to decide who among them is telling the truth.[31] The trial court, which was able to carefully observe the testimony of Alicia, was not adequately convinced by her allegations.

To recall, the Information charged accused-appellant of committing the following act: "by means of force and intimidation, did, then and there willfully, unlawfully, and feloniously have carnal knowledge [of AAA], 19

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28 *See People v. De Guzman*, 423 Phil. 313, 331 (2001).
29 *People v. Narido*, 374 Phil. 489, 508 (1999).
30 *People v. Sulima*, 598 Phil. 238, 254 (2009).
31 *People v. Estoya*, G.R. No. 200531, December 5, 2012, 687 SCRA 376, 383.

years of age but with a mental age of a 5 year old, hence, a retardate, or demented, which is known to accused at the time of the commission of the offense, against her will and consent and to her damage and prejudice."[32] The Information, as worded, can conceivably comprehend rape under either paragraph 1(b) or 1(d) of Article 266-A of the Revised Penal Code, which provides:

> Article 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**. (Emphasis supplied)

In *People v. Caoile*,[33] we differentiated the terms "deprived of reason" and "demented," as follows:

> The term *demented* refers to a person who has dementia, which is a condition of deteriorated mentality, characterized by marked decline from the individual's former intellectual level and often by emotional apathy, madness, or insanity. On the other hand, the phrase deprived of reason under paragraph 1 (b) has been interpreted to include those suffering from mental abnormality, deficiency, or retardation. Thus, AAA, who was clinically diagnosed to be a mental retardate, can be properly classified as a person who is "deprived of reason," and not one who is "demented."

In the case at bar, AAA was clinically diagnosed to have mental retardation with the mental capacity of a seven-year old child.[34] The prosecution and the defense agreed to stipulate on the conclusion of the psychologist that the "mental age of the victim whose chronological age at the time of the commission of the offense is nineteen (19) years old x x x is that of a seven (7) year old child."[35] Accused-appellant is therefore criminally liable for rape under paragraph 1(b) of Article 266-A of the Revised Penal Code. The appropriate penalty is provided for by Article 266-B, which relevantly provides:

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32 Records, p. 1.
33 G.R. No. 203041, June 5, 2013, 697 SCRA 638, 649-650.
34 TSN, August 4, 2005, p. 5; records, p. 126.
35 Id.

> The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:
>
> x x x x
>
> 10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Since the accused-appellant's knowledge of AAA's mental retardation was alleged in the Information and admitted by the former during the trial, the above special qualifying circumstance is applicable, and the penalty of death should have been imposed. With the passage, however, of Republic Act No. 9346[36] prohibiting the imposition of the death penalty, the penalty of *reclusion perpetua* shall instead be imposed.

The RTC sentenced accused-appellant to suffer the penalty of imprisonment of twenty years and one day to forty years of *reclusion perpetua*. The Court of Appeals correctly modified the penalty to be simply *reclusion perpetua*. Since *reclusion perpetua* is an indivisible penalty, the Indeterminate Sentence Law cannot be applied.[37]

As regards accused-appellant's civil liability, the RTC ordered him to pay AAA in the amount of ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages. The Court of Appeals modified the trial court's decision by granting the additional award of ₱75,000.00 as civil indemnity and reducing the award of exemplary damages to ₱30,000.00. In accordance, however, to *People v. Lumaho,*[38] where the penalty for the crime committed is death which cannot be imposed because of Republic Act No. 9346, we increase the amounts of indemnity and damages to be imposed as follows: ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages. In addition, we impose 6% interest per annum from finality of judgment until fully paid.[39]

WHEREFORE, the present appeal is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CR No. 32275 dated August 11, 2010 is hereby **AFFIRMED with MODIFICATION** increasing the amounts of indemnity and damages to be imposed as follows: ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages. All amounts are furthermore subject to interest at the rate of 6% per annum from the date of finality of this judgment until fully paid.

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36 An Act Prohibiting the Imposition of Death Penalty in the Philippines.

37 *People v. Valdez*, 363 Phil. 481, 494 (1999).

38 G.R. No. 208716, September 24, 2014, citing *People v. Gambao*, G.R. No. 172707, October 1, 2013, 706 SCRA 508, 533.

39 *Roallos v. People*, G.R. No. 198389, December 11, 2013, citing *People v. Veloso*, G.R. No. 188849, February 13, 2013, 690 SCRA 586, 600.

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice