



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 205230

Present:

SERENO, C.J.,  
Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR., and  
REYES, JJ.

- versus -

ERNESTO VENTURA, SR.,  
Accused-Appellant.

Promulgated:

**MAR 12 2014**

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RESOLUTION

REYES, J.:

Accused-appellant Ernesto Ventura, Sr. (Ventura) challenges in this appeal the Decision<sup>1</sup> dated April 13, 2012 promulgated by the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04133, which affirmed with modification the judgment<sup>2</sup> of conviction for Rape rendered against him on May 27, 2009 by the Regional Trial Court (RTC) of Parañaque City, Branch 194, in Criminal Case No. 05-0366.<sup>3</sup>

<sup>1</sup> Penned by Associate Justice Florito S. Macalino, with Associate Justices Remedios A. Salazar-Fernando and Ramon M. Bato, Jr., concurring; *rollo*, pp. 2-8.

<sup>2</sup> Issued by Judge Leoncia Real-Dimagiba; *CA rollo*, pp. 21-25.

<sup>3</sup> Id. at 15.

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Through the testimonies of the victim herself (AAA),<sup>4</sup> her aunt BBB,<sup>5</sup> *Barangay Tanod* Ronaldo Antiporda (Antiporda),<sup>6</sup> and the medico legal officer,<sup>7</sup> the prosecution's case was summarized as follows:

On March 24, 2005, at about 2:00 a.m., BBB had just came from a wake and was passing by the bakery of Ventura's son when she saw Ventura, naked from waist down, on top of a woman on a bench in front of the bakery. BBB coughed to get their attention and Ventura immediately stood up, put on his pants and entered his house. BBB then realized that the woman was her niece, AAA, who was then only 17 years old, unschooled and has a mental disability. She then held AAA's hands and brought her home. Thereafter, BBB confronted AAA who confessed that she was already impregnated by Ventura and admitted that the latter was sexually abusing her. Upon learning this, BBB sought help from the employer of AAA's sister who accompanied them to the Criminal Investigation and Detection Group (CIDG) to file a complaint<sup>8</sup> against Ventura.<sup>9</sup>

Thereafter, the members of the CIDG went to AAA's *barangay* hall, and Antiporda was one of the *barangay tanods* who was tasked to escort them to the residence of Ventura. Antiporda testified that upon arriving at Ventura's house, he informed Ventura of the complaint against him and invited the latter to the *barangay* hall. Ventura, with his wife, voluntarily went with them. At the *barangay* hall, the wife of Ventura approached AAA and asked her for forgiveness.<sup>10</sup>

AAA narrated that she was near the bakery of Ventura's son when Ventura asked her to lie down on the bench. Ventura undressed her, went on top of her, and inserted his penis inside her vagina. After succeeding in having carnal knowledge of her, Ventura threatened AAA by poking a knife at her while instructing her not to tell anyone about the incident.<sup>11</sup> She was then forced by Ventura to accompany him in selling *pandesal* until the early morning, and she could not escape him because he was holding her hands and would not let her go.<sup>12</sup> AAA said that Ventura would give her clothes and money every time he would rape her and instructed her not to tell anyone of the sexual assaults.<sup>13</sup>

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<sup>4</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of their immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-10-11-SC dated October 19, 2004; TSN, August 4, 2008.

<sup>5</sup> TSN, March 7, 2007.

<sup>6</sup> TSN, January 24, 2007.

<sup>7</sup> TSN, January 18, 2006.

<sup>8</sup> Records, p. 16

<sup>9</sup> TSN, March 7, 2007, pp. 6-19.

<sup>10</sup> TSN, January 24, 2007, pp. 12-21.

<sup>11</sup> TSN, August 4, 2008, pp. 5-14.

<sup>12</sup> Id. at 18-19 and 26-28.

<sup>13</sup> Records, p. 11.

The Medico Legal Officer of the Philippine National Police Crime Laboratory testified that based on his interview with AAA, he found out that AAA was mentally deficient.<sup>14</sup> His initial and final medico legal report revealed that AAA was already pregnant and that there was definite evidence of abuse or sexual contact.<sup>15</sup>

For his part, Ventura<sup>16</sup> denied the charge against him and invoked the defense of *alibi* alleging that he did not rape AAA on March 24, 2005 as he did not leave his home because he was busy making bread for their bakery with his children, and it was already 10:00 a.m. when he was able to leave their bakery. He also admitted having knowledge that AAA has a mental defect.<sup>17</sup>

After trial, the RTC rendered judgment<sup>18</sup> on May 27, 2009, convicting Ventura of the crime charged and sentenced him to suffer the penalty of *reclusion perpetua*, and ordered him to pay AAA by way of damages the amount of ₱100,000.00. The trial court viewed the findings of the medico legal officer that AAA was already pregnant at the time of her physical and medical examination as clear proof and manifestation that she is a victim of rape, particularly in her case who was then only 17 years old, mentally deficient, illiterate, unschooled, and thus, incapable of giving rational consent to any lascivious act or sexual intercourse. The trial court also noted that Ventura failed to present any defense as to the explicit testimony of AAA that she was also sexually abused by him on other occasions since the only denial he interposed was against the consummated rape done on March 24, 2005.

On appeal, the CA affirmed the decision of the trial court with modification as to the award of damages. The CA ordered Ventura to pay the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages.<sup>19</sup> Ventura then appealed his conviction to this Court.<sup>20</sup>

### **The Issue**

Whether the guilt of Ventura for the crime charged has been proven beyond reasonable doubt.

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<sup>14</sup> TSN, January 18, 2006, p. 12.

<sup>15</sup> Original Exhibits B and C, pp. 3-4.

<sup>16</sup> TSN, December 15, 2008.

<sup>17</sup> Id. at 8-15.

<sup>18</sup> CA *rollo*, pp. 21-25.

<sup>19</sup> *Rollo*, pp. 2-8.

<sup>20</sup> Id. at 9-10.

The Court’s Rulings

The appeal lacks merit.

In the Information<sup>21</sup> filed before the RTC on March 31, 2005, Ventura was charged with rape of a demented person under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC), to wit:

That on or about the 24<sup>th</sup> day of March 2005, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, having moral ascendancy, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of victim [AAA], 17[-]year old minor, **a demented person** and with mental capacity below 18 years old, against her will and without her consent, **the accused knowing the victim’s mental disability at the time of the commission of the crime**, which acts are demeaning to the demented minor.<sup>22</sup> (Emphasis ours)

Article 266-A, paragraph 1<sup>23</sup> of the RPC, as amended, provides for two circumstances when having carnal knowledge of a woman with a mental disability is considered rape, to wit: paragraph 1(b) – when the offended party is deprived of reason; and paragraph 1(d) – when the offended party is demented.

Under paragraph 1(d), 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, under paragraph 1(b), the phrase *deprived of reason* has been interpreted to include those suffering from mental abnormality, deficiency, or retardation.<sup>24</sup> Since AAA is mentally deficient, she should properly be classified as a person who is “deprived of reason,” and not one who is “demented.” Hence, carnal knowledge of a mentally deficient individual is rape under subparagraph b and not subparagraph d of Article 266-A(1) of the RPC, as amended.<sup>25</sup> Nevertheless, the erroneous reference to paragraph 1(d) in the Information will not exonerate Ventura because he failed to raise this as an objection,

<sup>21</sup> CA rollo, p. 15.  
<sup>22</sup> Id.  
<sup>23</sup> 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:  
x x x x  
b) When the offended party is deprived of reason or otherwise unconscious;  
x x x x  
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.  
<sup>24</sup> *People v. Caoile*, G.R. No. 203041, June 5, 2013, 697 SCRA 638.  
<sup>25</sup> *People v. Montcalvo*, G.R. No. 193507, January 30, 2013, 689 SCRA 715, 729.

and the particular facts stated in the Information were protestation sufficient to inform him of the nature of the charge against him.

From the foregoing, all that needs to be proven are the facts of sexual congress between the rapist and his victim, and the latter's mental retardation.<sup>26</sup> This Court has repeatedly held that "mental retardation can be proven by evidence other than medical/clinical evidence, such as the testimony of witnesses and even the observation by the trial court."<sup>27</sup> The trial judge's assessment of the credibility of witnesses' testimonies is accorded great respect on appeal in the absence of grave abuse of discretion on its part, it having had the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses.<sup>28</sup> The rule finds an even more stringent application where the said findings are sustained by the appellate court.

In the present case, the prosecution was able to establish that AAA is, indeed, a mental retardate through the testimony of BBB and the medico legal officer, and the trial court's observation. It is also worthy to note that the defense did not dispute but even admitted the fact that AAA is suffering from mental retardation. Though AAA proceeded with much difficulty in describing the sexual abuse made on her, no convincing reason can be appreciated to warrant a departure from the findings of the trial court with respect to the assessment of her testimony, the same being straightforward, candid, and worthy of belief. This Court is also convinced that AAA has no ill-motive to manufacture such a tale if it were not true.

In impugning AAA's accusation of rape against him, Ventura interposed the defense of denial and *alibi*. As can be gleaned from the records of this case, Ventura's argument centered only on the fact that it was impossible for him to rape AAA on the said date and time of the incident because he was busy making bread at their bakery, and the only time he left their house was at 10:00 a.m. Even assuming that he worked inside their bakery the whole day, it was not impossible for him to commit the crime because the rape took place on the bench located just in front of their bakery.

The fact that no consummated rape happened on March 24, 2005 based on the testimonies of BBB and the medico legal officer, as well as the absence of lacerations on AAA's vagina, pointed to by Ventura cannot work in his favor. The absence of hymenal lacerations on AAA's vagina upon medical examination does not negate the fact of rape. A freshly broken hymen is not also an essential element of rape.<sup>29</sup> In the context it is used in

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<sup>26</sup> *People of the Philippines v. Jolie Suansing*, G.R. No. 189822, September 2, 2013.

<sup>27</sup> *Supra* note 25, at 732-733, citing *People v. Dalandas*, 442 Phil. 688, 697 (2002).

<sup>28</sup> *People v. Dela Paz*, 569 Phil. 684, 704 (2008).

<sup>29</sup> *Supra* note 25, at 735.

the RPC, carnal knowledge does not necessarily require that the vagina be penetrated or that the hymen be ruptured.<sup>30</sup>

AAA's failure to recall the exact date of the first rape and the number of times she was sexually assaulted by Ventura prior to March 24, 2005, does not militate against her credibility since rape victims are not expected to cherish in their memories an accurate account of the dates, number of times and manner they were violated.<sup>31</sup> This is especially true in the case of AAA who obviously cannot be expected to act like an adult who would have the courage and intelligence to disregard the threat to her life and complain immediately that she had been sexually assaulted. AAA's testimony was clear that every time Ventura would rape her, he would threaten her against revealing the offense. Given AAA's mental condition, it can well substitute for violence and intimidation enough to cow her into submission.

The Court had repeatedly held that the exact date when the victim was sexually abused is not an essential element of the crime of rape,<sup>32</sup> for the gravamen of the offense is carnal knowledge of a woman. Indeed, the precise time of the crime has no substantial bearing on its commission. As such, the time or place of commission in rape cases need not be accurately stated.<sup>33</sup> Inconsistencies and discrepancies as to minor matters which are irrelevant to the elements of the crime cannot be considered grounds for acquittal.<sup>34</sup> Hence, the allegation in the information under Criminal Case No. 05-0366, which states that the rape was committed on or about March 24, 2005, is sufficient to affirm the conviction of Ventura in the said case.

Lastly, the trial court had observed that Ventura's actions were detested by his family because despite having a large kin,<sup>35</sup> none of them testified for Ventura's defense or did anything to support his case. They did not even bother to visit him while he was in jail.<sup>36</sup>

In sum, the defense of denial as well as the points advanced by Ventura miserably failed to cast doubt on his culpability. The prosecution was able to prove that Ventura is guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph 1(b) of the RPC, as amended by Republic Act (R.A.) No. 8353. Taking into consideration the presence of the special qualifying circumstance of Ventura's knowledge of AAA's mental deficiency, the same being properly alleged in the Information charging the appellant of the crime of rape and proven during trial, this

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<sup>30</sup> *People v. Dimanawa*, G.R. No. 184600, March 9, 2010, 614 SCRA 770, 781.

<sup>31</sup> *People v. Lor*, 413 Phil. 725, 736 (2001).

<sup>32</sup> *Supra* note 25, at 735.

<sup>33</sup> *People v. Cinco*, G.R. No. 186460, December 4, 2009, 607 SCRA 820, 827.

<sup>34</sup> *Supra* note 25, at 735.

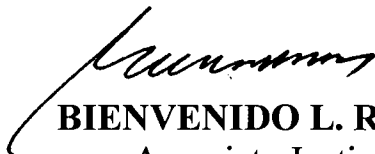
<sup>35</sup> Appellant and his wife had 12 children, the oldest was around 30 years old while the youngest was around 14 at the time he testified in court on December 15, 2008.

<sup>36</sup> *CA rollo*, p. 25.

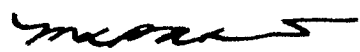
Court has no option but to impose on the appellant the penalty of *reclusion perpetua* in accordance with Section 2 of R.A. No. 9346.<sup>37</sup>


**WHEREFORE**, the instant appeal is **DENIED** and the Decision dated April 13, 2012 of the Court of Appeals in CA-G.R. CR-H.C. 04133 which found accused-appellant Ernesto Ventura, Sr. **GUILTY** beyond reasonable doubt of the crime of Rape, is **AFFIRMED**.

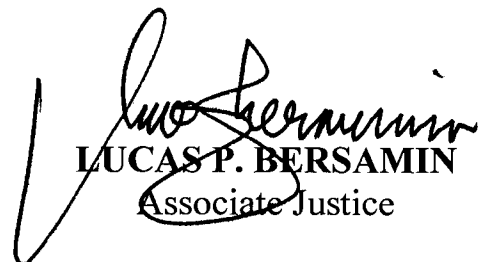
**SO ORDERED.**


  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

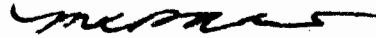
<sup>37</sup> Entitled "AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY IN THE PHILIPPINES."

Sec. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code.

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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