

SECOND DIVISION

[G.R. No. 204047, January 13, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEXANDER "SANDER" BANGSOY, ACCUSED-APPELLANT.**

D E C I S I O N

BRION, J.:

We decide the appeal, filed by accused-appellant Alexander Bangsoy (*appellant*), from the January 17, 2012 decision^[1] of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 04808. The appealed decision affirmed the August 16, 2010 Joint Judgment^[2] of the Regional Trial Court (RTC), Branch 4, Baguio City, finding the appellant guilty beyond reasonable doubt of two (2) counts of statutory rape,^[3] and sentencing him to suffer the penalty of *reclusion perpetua* without eligibility for parole in each count.

The RTC Ruling

In its August 16, 2010 decision, the RTC found the appellant guilty beyond reasonable doubt of two counts of statutory rape. It gave credence to the testimony of AAA^[4] that her uncle, herein appellant, inserted his penis inside her vagina on two occasions. The RTC explained that AAA testified clearly despite her mental weakness, and that she never wavered during cross-examination. It further held that the appellant's moral ascendancy over AAA, combined with the former's use of a deadly weapon and threats of bodily harm, was more than enough to cow the victim into submitting to the appellant's desires. Finally, the trial court rejected the appellant's bare denial and uncorroborated alibi.

Accordingly, the RTC sentenced the appellant to suffer the penalty of *reclusion perpetua* without eligibility for parole. It also ordered him to pay the victim the following amounts: P75,000.00 as civil indemnity; P75,000.00 as moral damages; P30,000.00 as exemplary damages, plus six percent (6%) interest on all damages awarded from the date of judgment until fully paid.

The CA Decision

On appellate review, the CA affirmed the RTC's Joint Judgment. The CA held that AAA positively identified the appellant as the person who sexually abused her on two occasions in April 2004, and who threatened to kill her if she would report the incidents to her father. It added that AAA testified in a straightforward and categorical manner despite her mental retardation.

The CA further ruled that the absence of hymenal lacerations did not negate a finding of rape. It added that rape is not always committed in seclusion since lust is no respecter of time and place. The CA also ruled that the inconsistencies in AAA's

testimonies refer to only minor details and collateral matters. Finally, the appellate court ruled that AAA's act of returning to the house of her father did not impair her credibility since she should not be "judged by the norms of behavior expected of mature persons."^[5]

The Court's Ruling

After due consideration, we resolve to (a) **affirm** the appellant's conviction in Criminal Case No. 24761-R, but **modify** the designation of the crime committed, and (b) **grant** his appeal in Criminal Case No. 24762-R.

Elements of Rape in Criminal Case No. 24761-R Established

For a charge of rape under Article 266-A of the Revised Penal Code, as amended, the prosecution must prove that (1) the offender had carnal knowledge of a woman; and (2) he accomplished such act through force, threat or intimidation, when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented. Carnal knowledge of a woman who is a mental retardate is rape under the aforesaid provisions of law. Proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act.^[6] What needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter.^[7]

In the present case, the prosecution successfully established that the first rape indeed took place and that the appellant was the malefactor. First, AAA positively identified the appellant as the person who inserted his penis into her vagina, causing her pain. As found by the courts below, she never wavered in this identification, thus:

PROSECUTOR MARGARITA DE GUZMAN-MANALO:

Q: And can you tell us what happened when there was a time that you slept at Brookside and your uncle Sander came?

AAA:

A: When I was sleeping, my Uncle Sander came and he put a piece of cloth in my mouth.

Q: Why did he put a piece of cloth in your mouth?

A: He **inserted his penis into my vagina.**

Q: When your uncle inserted his penis in your vagina, did he remove your panty?

A: Yes.

Q: And were you alone sleeping in that room at the time your uncle came?

A: No.

Q: Who was your companion?

A: My father.

Q: Your father was with you inside the room?

A: Yes.

Q: Now, you said that your uncle placed a cloth on top of your mouth?

A: Yes.

Q: And do you know why he placed this cloth on top of your mouth?

A: So that I could not shout.
Q: And what did you feel when you said that your uncle Sander placed his penis in your vagina?
A: **It was painful.**
Q: And after that, what else happened?
A: No more.
Q: Did he [sic] tell your father about what your uncle did to you?
A: No because I was threatened.
Q: How were you threatened?
A: He pointed a knife at me. x x x x^[8]

Notably, both the RTC and CA found AAA's testimony credible and convincing. We see no reason to disbelieve the testimony of AAA either with respect to the first rape, which the trial and appellate courts found to be credible and straightforward. Given the victim's mental condition, it is highly improbable that she could have concocted or fabricated a rape charge against the accused. Neither was it possible that she was coached into testifying against appellant considering her limited intellect.

Under these circumstances, only a very startling event would leave a lasting impression on her that she could recall when asked about it.^[9] We particularly point out that when AAA pointed to the appellant in the courtroom as her sexual abuser, she even stated that she filed a complaint so that "he will not do it to anybody else anymore [sic]."^[10]

In the light of AAA's mental state, her simple narration of what transpired, instead of adversely affecting her credibility, was indicative of her honesty and guilelessness. Thus, her straightforward narration should be believed.

Second, the prosecution successfully established AAA's mental condition. Maribel Tico, a psychologist from the Philippine Mental Health Association, testified that she conducted a mental status examination on AAA, and found her to be suffering from mild mental retardation "with a corresponding [m]ental [a]ge of 7 years and 1 month."^[11] The pertinent portions of Tico's *Psychological Report*^[12] reads:

Intellectual Evaluation:

On the intelligence test administered, [AAA] is classified within the **Mental Retardation** range of intellectual functioning, **Mild** in severity based on an overall estimated IQ score of 65. She has a corresponding Mental Age of **7 years and 1 month**. Compared to her age group, she is performing poorly in terms of mental ability.

x x x x

SUMMARY AND RECOMMENDATION:

[AAA] is estimated within the **Mild Mental Retardation** range of

intellectual ability with a corresponding Mental Age of **7 years and 1 month**, x x x^[13]

The Appellant's Defenses

Like the courts below, we are not convinced by the appellant's claim that he could not have raped AAA because he was in Honeymoon Road in April 2004. We point out that Honeymoon Road and the place where the rape took place - Brookside - are both located in Baguio City. The appellant even admitted that both places are near each other as Honeymoon Road is just a 10-minute walk from Brookside. Under these circumstances, it was not physically impossible for the appellant to be at the *locus criminis* on the date of the first rape.

Contrary to the appellant's claim, the presence of the victim's father^[14] in the room does not negate the commission of the crime. Rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. It is not impossible or incredible for the members of the victim's family to be in deep slumber and not to be awakened while a sexual assault is being committed. It is settled that lust is not a respecter of time or place and rape is known to happen in the most unlikely places.^[15]

While AAA also stated that the lights of the room had been turned off, it was not improbable for her to see the face of the person who removed her panty and inserted his penis into her private part more so since the room was illuminated by the lights coming from the nearby house. At the distance that would allow the described insertion, the parties would be so near each other that they could see and even smell one another. In addition, AAA categorically declared that she saw the appellant's face and was familiar with his voice.

We likewise do not find any merit in the appellant's argument that the victim's act of returning to the place where she was sexually abused tainted her credibility. The place where the rape took place was not the appellant's house, but the house of AAA's father that the victim and her brother usually visited every week; thus, it was not unusual for the victim to be there to visit her father.

At any rate, it is not proper to judge by adult norms of behavior the actions of children who have undergone traumatic experiences. Certainly, a child - more so in the case of AAA who is suffering from mild mental retardation - cannot be expected to act like an adult or do what may be expected of mature people under similar circumstances.^[16]

We disagree with the appellant's insistence that the initial reluctance of AAA to reveal the assault tainted her credibility. Young girls usually conceal their ordeal because of threats made by their assailants.^[17] In this case, the records showed that the appellant threatened to kill AAA if she would reveal the incident to others.

We are also not persuaded by the appellant's claim that AAA was not a credible witness due to the alleged inconsistencies between her sworn statement (in Ilocano