

## SECOND DIVISION

[ 110817-22, June 13, 1997 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARCELINO A. BUGARIN, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision,<sup>[1]</sup> dated February 11, 1993, of the Regional Trial Court, Branch 97 of Quezon City rendered in Criminal Cases Nos. Q-92-28785 to 86 and Q-92-31157 to 31160, finding accused-appellant Marcelino Bugarin guilty of four counts of consummated rape and one count of attempted rape and sentencing him as follows:

WHEREFORE, this Court finds the accused GUILTY beyond reasonable doubt as charged of multiple (3 Counts) rape and one count of attempted rape, and in accordance with Article 335 of the Revised Penal Code sentences him to prison terms as follows:

1)For each of the four counts of the above rape, *reclusion perpetua*.

2)For the attempted rape, two (2) years and four (4) months in the minimum penalty to four (4) years in the maximum period and to indemnify the private complainant in the amount of P50,000.00 as moral damages and exemplary damages of P50,000.00 to deter sexual crimes of the sort committed by accused.

SO ORDERED.

The complainant, Maryjane Bugarin, is the daughter of accused-appellant. On February 22, 1992, accompanied by her mother, Regina Bugarin, and her maternal aunt, Nena Padecio, she complained to the Central Police District Command that she had been repeatedly raped by accused-appellant. In her sworn statement she related how, on nine different occasions between November 1989 and January 17, 1992, her father entered the common sleeping area of their house in Payatas, Quezon City and, after holding her knees and spreading her legs, succeeded in inserting his penis into her vagina and kissed her breasts. She claimed that, on January 17, 1992, her father molested her by "kissing her vagina" and that only by repeatedly kicking him did he desist from molesting her any further.

Complainant was examined on the same date by Emmanuel I. Aranas, PNP Medico-Legal Officer, who found that she was "in non-virgin state physically."<sup>[2]</sup> On February 25, 1992, she returned to the police station to file formal charges against her father. The case was referred to the Office of the Quezon City Prosecutor which found

probable cause and accordingly filed charges for consummated rape and attempted rape by means of force and intimidation committed on December 23, 1991 and January 17, 1992 against accused-appellant Marcelino Bugarin. No bail was recommended "considering that the evidence of guilt of the respondent is strong." The cases were docketed as Criminal Cases Nos. Q-92-28785 and Q-92-28786 and raffled to Branch 88 of the Quezon City Regional Trial Court.

On May 7, 1992, four more charges for rape by means of force and intimidation committed on November 1989, May 1990, June 1990, and March 14, 1991 were filed against accused-appellant, Docketed as Criminal Cases Nos. Q-92-31157 to 31160, the additional cases were raffled to Branch 97 of the same court. These cases were eventually consolidated and assigned to Branch 88.

The informations in the six cases alleged as follows:

**Crim Case No. 92-31157**

That on or about the month of June 1990 in Quezon City, Philippines, the said accused by means of force and intimidation, did then and there, wilfully and feloniously have carnal knowledge of the undersigned MARY JANE BUGARIN y ASUNCION, a minor, 15 years of age, without her consent and against her will, to the damage and prejudice of the latter.

The crime was attended by the aggravating circumstance of relationship.

**Crim. Case No. 92-31158**

That on or about the month of November, 1989 in Quezon City, Philippines, the said accused, by means of force and intimidation, did then and there, wilfully and feloniously have carnal knowledge with the undersigned MARY JANE BUGARIN y ASUNCION without her consent and against her will, to the damage and prejudice of the latter.

The crime was attended by the aggravating circumstance of relationship.

**Crim. Case No. 92-31159**

That on or about the 14th day of March, 1991 in Quezon City, Philippines, the said accused, by means of force and intimidation, did then and there, wilfully and feloniously have carnal knowledge of the undersigned MARYJANE BUGARIN y ASUNCION, a minor, 15 years of age, without her consent and against her will, to the damage and prejudice of the latter.

The crime was attended by the aggravating circumstance of relationship.

**Crim. Case No. 92-31160**

That on or about the month of May 1990 in Quezon City, Philippines, the said accused by means of force and intimidation, did then and there wilfully and feloniously have carnal knowledge of the undersigned MARYJANE BUGARIN y ASUNCION, a minor, 15 years of age, without her consent and against her will, to the damage and prejudice of the latter.

The crime was attended by the aggravating circumstance of relationship.

**Crim. Case No. 92-28785**

That on or about the 17th day of January, 1992, in Quezon City, Metro Manila, Philippines, and 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 wilfully, unlawfully and feloniously commence the commission of the crime of Rape directly by overt acts, by then and there kissing the nipples and the vagina of the undersigned MARYJANE BUGARIN Y ASUNCION, a minor, and about to lay on top of her, all against her will, however, the said accused did not perform all the acts of execution which would have produced the crime of Rape by reason of some causes other than his own spontaneous desistance, that is, undersigned complainant push him away, to the damage and prejudice of the undersigned in such amount as may be awarded to her under the provisions of the

**New Civil Code.**

**Crim. Case No. 92-28786**

That on or about the 23<sup>rd</sup> day of December, 1991, in Quezon City, Metro Manila, Philippines, and 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 wilfully, unlawfully and feloniously have sexual intercourse with the undersigned MARYJANE BUGARIN Y ASUNCION, a minor, without her consent and against her will, to her damage and prejudice in such amount as may be awarded to her under the provisions of the New Civil Code.

Upon arraignment, accused-appellant pleaded not guilty in each case, after which trial ensued. Under questioning by the prosecutor, Maryjane Bugarin narrated how her father sexually assaulted her in their family's common sleeping area while no one was at home and threatened her if she told anyone about what happened.

Accused-appellant denied the charges against him. He claimed to be God fearing and morally upright and that his wife, Regina Bugarin, must have induced their daughter to file the complaints against him because his wife blamed him for financially neglecting their family since 1989.

In rebuttal, the prosecution presented Regina Bugarin who testified that a good mother would not expose her child to humiliation just to get back at her husband. She further claimed that her daughter, who had been raised properly and taught to be honest, could not have fabricated the charges against the accused-appellant.

In a two-page decision, promulgated on February 11, 1993, the trial court, after giving a summary of the testimonies of the complainant and accused-appellant, laconically ruled:

The issue is simple. Is the private complainant credible in her story of how she was raped? The answer of this Court is an undoubtful and a definite yes.

Accused-appellant questions the trial court's decision on the ground that: (1) the testimony of Maryjane Bugarin is not credible; (2) the elements of force and intimidation had not been proved; and (3) the

decision of the trial court does not state the facts and law upon which it was based. On the other hand, the Solicitor General, representing the prosecution, contends that complainant, who was only 15 years old when she reported the crime, was not likely to concoct charges against her father and that the moral ascendancy of the father over her took the place of force and intimidation in rape.

We take up first accused-appellant's charge that the decision of the trial court does not state the grounds therefor. Indeed, the Constitution provides in part in Art. VIII, § 14 that

"No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based." This requirement is reiterated and implemented by the 1985 Rules of Criminal Procedure which provides in Rule 120, §2:

*Sec. 2. Form and contents of judgment.* - The judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts proved or admitted by the accused and the law upon which the judgment is based..

If it is of conviction, the judgment shall state (a) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there are any; (b) the participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory after the fact; (c) the penalty imposed upon the accused; and (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate action has been reserved or waived.

In case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, the judgment shall make a finding on the civil liability of the accused in favor of the offended party.

The decision of the trial court falls short of this requirement in at least three respects. First, it does not contain an evaluation of the evidence of the parties and a discussion of the legal questions involved. It does not explain why the trial court considered the complainant's testimony credible despite the fact that, as accused-appellant points out, complainant could not remember the time of the day when she was allegedly raped. It does not explain why accused-appellant's licking of complainant's genital constituted attempted rape and not another crime. Second, the complainant testified that she had been raped five times, to wit, in November 1989, on December 24, 1989, in June 1990, on March 14, 1991, and on December 23, 1991, and that once, on January 17, 1992, she was molested by her father who licked her private part, for which reason six informations were filed against him, but the decision found the accused-appellant guilty of only four counts of rape (which the trial court erroneously said three counts) and one count of attempted rape, without explaining whether accused-appellant was being acquitted of one charge of rape. Third, the decision is so carelessly prepared that it finds the accused-appellant guilty of three counts of consummated rape but sentences him to suffer the penalty of *reclusion perpetua* "for each of the four counts of ... rape."

Maryjane claimed she had been raped on December 24, 1989, but the information in Criminal Case No. Q-92-31160 is for rape allegedly committed in May 1990. It must

be for this reason that the trial court convicted accused-appellant of only four counts of rape, instead of five. But the trial court should have explained so, if this was really the reason, and expressly acquitted the accused-appellant of the charge under this information.

The requirement that the decisions of courts must be in writing and that they must set forth clearly and distinctly the facts and the law on which they are based serves many functions. It is intended, among other things, to inform the parties of the reason or reasons for the decision so that if any of them appeals, he can point out to the appellate court the findings of facts or the rulings on points of law with which he disagrees. More than that, the requirement is an assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning. It is, thus, a safeguard against the impetuosity of the judge, preventing him from deciding by *ipse dixit*. Vouchsafed neither the sword nor the purse by the Constitution but nonetheless vested with the sovereign prerogative of passing judgment on the life, liberty or property of his fellowmen, the judge must ultimately depend on the power of reason for sustained public confidence in the justness of his decision. The decision of the trial court in this case disrespects the judicial function.

We would normally remand this case to the trial court for compliance with the constitutional requirement for decisions. But this case has been pending for sometime and further delay can be avoided if the Court simply reviews the whole evidence. After all, the records of the trial court contain the transcript of stenographic notes, the complainant's sworn statement dated February 22, 1992, the resolution of the prosecutor, and the statement of the arresting officer, on the basis of which the Court may properly decide the case.<sup>[3]</sup> For this reason the Court has decided to review this case despite the failure of the trial court to make detailed findings of facts and a statement of the reasons underlying its decision.

Now it is settled that when the complainant in a rape case, more so if she is a minor, <sup>[4]</sup> testifies that she has been raped, she says, in effect, all that is necessary to prove the commission of the crime.<sup>[5]</sup> Care must be taken, however, that her testimony is credible for a conviction to be justified based on her testimony alone.<sup>[6]</sup> In this case, Maryjane Bugarin testified on November 25, 1992 as follows:

Q- On November 1989, was your father residing with you or was he living with you?

A- Yes, sir.

Q- Now, on November, 1989 do you remember any unusual incident that happened, if any?

A- Yes, sir, when he entered the room.

Q- When you say "he," are you referring to Marcelino Bugarin?

A- Yes, sir.

Q- If Marcelino Bugann is present today, would you be able to identify him?

A- Yes, sir. (witness is pointing to a man wearing a green t-shirt who answers by the name Marcelino Bugarin when asked by the Court).