

EN BANC

[G.R. No. 167503, August 20, 2008]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LUISITO BAUN Y
MERCADO, APPELLANT.**

DECISION

AZCUNA, J.:

This is a petition for review of the Decision of the Court of Appeals in CA-G.R. CR H.C. No. 00266 which affirmed with modification the Decision of the Regional Trial Court (RTC) of Siniloan, Laguna, Branch 33, dated August 12, 2000, finding appellant Luisito Baun guilty of four counts of rape and imposing on him the death penalty.

The facts are as follows:

On January 15, 2002, four (4) Informations^[1] for qualified rape were filed against the appellant, which read:

CRIMINAL CASE NO. S-5932

That on or about July 21, 2001, at Brgy. Pag-asa, Municipality of Mabitac, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his daughter [AAA], a fourteen (14) year old girl, against her will and consent, to her damage and prejudice.

That the qualifying aggravating circumstance of moral ascendancy is present in the commission of the crime, the accused being the father of the victim.

CRIMINAL CASE NO. S-5933

That on or about August 9, 2001, at Brgy. Pag-asa, Municipality of Mabitac, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his daughter [AAA], a fourteen (14) year old girl, against her will and consent, to her damage and prejudice.

That the qualifying aggravating circumstance of moral ascendancy is present in the commission of the crime, the accused being the father of the victim.

CRIMINAL CASE NO. S-5934

That on or about August 15, 2001, at Brgy. Pag-asa, Municipality of Mabitac, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his daughter [AAA], a fourteen (14) year old girl, against her will and consent, to her damage and prejudice.

That the qualifying aggravating circumstance of moral ascendancy is present in the commission of the crime, the accused being the father of the victim.

CRIMINAL CASE NO. S-5935

That on or about September 30, 2001, at Brgy. Pag-asa, Municipality of Mabitac, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his daughter [AAA], a fourteen (14) year old girl, against her will and consent, to her damage and prejudice.

That the qualifying aggravating circumstance of moral ascendancy is present in the commission of the crime, the accused being the father of the victim.^[2]

CONTRARY TO LAW.

When arraigned on April 15, 2002, appellant, with the assistance of his counsel, entered pleas of "not guilty" to the crimes charged.

During the hearing on July 22, 2002, appellant, through counsel, manifested his desire to withdraw his earlier pleas of not guilty and be re-arraigned for the purpose of entering pleas of guilty. Thus, appellant was re-arraigned and pleaded guilty to the four counts of rape.

The trial court asked appellant questions to determine the voluntariness and full comprehension of the consequences of his pleas of guilty to a capital offense in accordance with Sec. 3, Rule 116 of the Rules of Court.

Notwithstanding the pleas of guilty, trial was held to determine the guilt of appellant.

The evidence presented by the prosecution consisted of private complainant's testimony, sworn statement, medical certificate and birth certificate.

Private complainant's birth certificate showed that she was born on August 10, 1987 and that the name of her father is Luisito Baun.

Private complainant testified that she was only 13 years old when appellant first raped her on July 21, 2001 and again on August 9, 2001 in their home in Mabitac, Laguna. Thereafter, she was again raped on August 15, 2001 and September 30, 2001, when private complainant was 14 years old. The four counts of rape were committed at night when everyone was asleep, and private complainant's mother was in Manila. Appellant had carnal knowledge of her in the same room where her 15-year-old brother was sleeping.^[3]

Private complainant stated that she did not tell her brother about the rape incidents because she was afraid that appellant would beat her. But she confided in her friends and they advised her to report the matter to their teacher, which she did. Her teacher advised her to report the matter to the sister of her father.^[4]

On October 7, 2001, private complainant, accompanied by her mother, reported the rape incidents to the police at the Mabitac Municipal Police Station where she executed a sworn statement.^[5]

Thereafter, private complainant proceeded to General Cailles Memorial District Hospital of Pakil, Laguna, for medical examination. The medical certificate^[6] issued to private complainant reads:

Pertinent Physical Examination:

General Survey: F/N, F/D, afebrile, not in distress, no evidence of external physical injuries.

Genitalia: Non-gaping vaginal orifice.

Internal Examination: Admits 1 finger with ease; with hymenal lacerations; old, healed, complete at 3 and 9 o'clock positions; incomplete at 4 and 8 o'clock positions. Whitish non mucoidal, non foul smelling minimal discharge.

Vaginal smear done Pus cells 0-2/hpf
RBC 0-/hpf
Bacteria ++, no sperm cells found.

After the testimony of private complainant, the prosecution formally offered in evidence private complainant's sworn statement, medical certificate, and birth certificate before resting its case.

The defense was allowed to comment on the exhibits, and it admitted the same. Hence, all exhibits were admitted by the trial court.

On August 12, 2002, the RTC rendered a decision, the dispositive portion of which reads:

WHEREFORE, finding accused LUISITO MERCADO BAUN guilty beyond reasonable doubt of not only one but four (4) cases of rape on his own daughter, [AAA], he is hereby sentenced to suffer the penalty of DEATH for each case.

Similarly, he is hereby ordered to pay the above complainant-offended party the sum of P75,000.00 as actual damages for each case or the total amount of P300,000.00 and moral damages in the sum of P50,000.00 for each case or the total sum of P200,000.00.

No exemplary damages was proven, hence, nothing is awarded to her.

SO ORDERED.^[7]

The case was elevated to this Court for automatic review. The Court transferred the case to the Court of Appeals for intermediate review following *People v. Mateo*.^[8]

In the Decision promulgated on February 15, 2005, the Court of Appeals affirmed the Decision of the RTC with modification. The dispositive portion of the decision reads:

WHEREFORE, in the light of the foregoing, the decision of the Regional Trial Court of Siniloan, Laguna, Branch 33 dated August 12, 2002 is AFFIRMED with the MODIFICATION that the accused-appellant is ordered to pay the private complainant for each count of rape, the amount of P25,000.00 as exemplary damages in addition to the moral damages and civil indemnity awarded by the trial court.

In accordance with A.M. No. 00-5-03-SC which took effect on October 15, 2004, amending Section 13, Rule 124 of the Revised Rules of Criminal Procedure, let the entire records of this case be elevated to the Supreme Court for review.^[9]

In a Resolution dated May 10, 2005, the Court accepted this case from the Court of Appeals and required the parties to simultaneously submit supplemental briefs if they so desired. Appellant, through counsel (Public Attorney's Office), submitted his supplemental brief on July 7, 2005, while appellee, through the Office of the Solicitor General, submitted its brief on August 9, 2005.

Appellant assigned these errors:

1. The Court of Appeals erred in affirming appellant's conviction of the crimes charged despite his improvident plea of guilty.
2. The Court of Appeals erred in finding that appellant's guilt was proven beyond reasonable doubt.^[10]

Appellant contends that the trial court failed to observe the rules when an accused enters a plea of guilty to a capital offense. It failed to conduct a searching inquiry to determine whether appellant's plea of guilty was voluntary, with full comprehension of the consequences thereof, and to inquire whether appellant wished to present evidence on his own behalf.

The conduct of a searching inquiry is provided for in Sec. 3, Rule 116 of the Rules of Court, thus:

Sec. 3. Plea of guilty to capital offense; reception of evidence.--When the accused pleads guilty to a capital offense, the court shall conduct a

searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.

People v. Aguilar^[11] reiterated the guidelines prescribed by the Court in the conduct of a searching inquiry, thus:

(1) Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. This is intended to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent quarters or simply because of the judge's intimidating robes.

(2) Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to, the accused the meaning and consequences of a plea of guilty.

(3) Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.

(4) Inform the accused of the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. For not infrequently, an accused pleads guilty in the hope of a lenient treatment or upon bad advice or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. It is the duty of the judge to ensure that the accused does not labor under these mistaken impressions because a plea of guilty carries with it not only the admission of authorship of the crime proper but also of the aggravating circumstances attending it, that increase punishment.

(5) Inquire if the accused knows the crime with which he is charged and to fully explain to him the elements of the crime which is the basis of his indictment. Failure of the court to do so would constitute a violation of his fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.

(6) All questions posed to the accused should be in a language known and understood by the latter.

(7) The trial judge must satisfy himself that the accused, in pleading guilty, is truly guilty. The accused must be required to narrate the tragedy or reenact the crime or furnish its missing details.

The full text of the trial's court searching inquiry reads:

Interpreter : Criminal Cases Nos. S-5932, S-5933, S-5934 and