

EN BANC

[G.R. NO. 166895, January 24, 2007]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO BUBAN,
APPELLANT.**

DECISION

VELASCO, JR., J.:

It must be remembered that [rape] is an accusation easy to be made, and hard to be proved and harder to be defended by the party accused x x.

— Lord Hale

The Case

For review before the Court is the January 11, 2005 Decision^[1] of the Court of Appeals (CA), affirming the June 26, 2002 Judgment^[2] of the Labo, Camarines Norte Regional Trial Court (RTC), Branch 64, finding appellant Romeo Buban guilty beyond reasonable doubt of raping his own daughter, and sentencing him to death.

The Facts

On September 11, 1997, appellant was charged with five (5) counts of rape committed on June 1, 3, and 5 and July 5 and 6, 1997^[3] against his then 12-year old daughter, AAA.^[4] The Informations read:

Criminal Case No. 97-0226

That on or about in the evening of June 1, 1997 at Sitio Danayan, Barangay San Roque, Municipality of Capalonga, [P]rovince of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of [AAA], by use of force, threats and intimidation, did, then and there, willfully, unlawfully and feloniously had carnal knowledge with said [AAA], a minor of twelve (12) years old, against her will.

CONTRARY TO LAW.

Criminal Case No. 97-0227

That on or about in the evening of June 3, 1997 at Sitio Danayan, Barangay San Roque, Municipality of Capalonga, [P]rovince of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of [AAA], by use of force,

threats and intimidation, did, then and there, willfully, unlawfully and feloniously had carnal knowledge with said [AAA], a minor of twelve (12) years old, against her will.

CONTRARY TO LAW.

Criminal Case No. 97-0228

That on or about in the evening of June 5, 1997 at Sitio Danayan, Barangay San Roque, Municipality of Capalonga, [P]rovince of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of [AAA], by use of force, threats and intimidation, did, then and there, willfully, unlawfully and feloniously had carnal knowledge with said [AAA], a minor of twelve (12) years old, against her will.

CONTRARY TO LAW.

Criminal Case No. 97-0229

That on or about in the morning of July 6, 1997 at Sitio Danayan, Barangay San Roque, Municipality of Capalonga, [P]rovince of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of [AAA], by use of force, threats and intimidation, did, then and there, willfully, unlawfully and feloniously had carnal knowledge with said [AAA], a minor of twelve (12) years old, against her will.

CONTRARY TO LAW.

Criminal Case No. 97-0230

That on or about in the evening of July 5, 1997 at Sitio Danayan, Barangay San Roque, Municipality of Capalonga, [P]rovince of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of [AAA], by use of force, threats and intimidation, did, then and there, willfully, unlawfully and feloniously had carnal knowledge with said [AAA], a minor of twelve (12) years old, against her will.

CONTRARY TO LAW.

When arraigned on November 10, 1997, appellant pleaded not guilty to the five charges.^[5] He likewise waived his right to pre-trial.^[6] During trial, the prosecution presented the following witnesses: 1) Dr. Marcelito B. Abas, a medico-legal officer of the Camarines Norte Provincial Hospital, Daet, Camarines Norte; 2) Melinda Reyes, a social worker; 3) Jessica Oscillada, a social worker of the Department of Social Welfare and Development (DSWD) Children's Home for Girls in Sorsogon, Camarines Sur; and 4) AAA, the minor victim.

The facts culled from the evidence are as follows:

AAA was born on August 5, 1984 to appellant Romeo Buban and BBB.^[7] She has a twin brother named CCC^[8] and seven other siblings. Her older brothers and sister worked as house helpers, while her father worked as a laborer in a fishpond in their barangay. Her mother died of hemorrhagic shock on May 27, 1997.^[9]

AAA narrated that the first rape occurred at nighttime of June 1, 1997 in the sala of their house in DDD,^[10] but she could not recall the date and time of the rape. While her siblings were sleeping in the room, appellant removed her panty and inserted his finger in her vagina. Appellant thereafter inserted his penis. AAA felt pain and her vagina bled. Appellant threatened to roast her alive if she would make noise to awaken her siblings.^[11]

AAA did not leave the house despite the incident because no one would take care of her siblings. Neither did she tell anyone of the rape because she was afraid the appellant would kill her. The following night of June 3, 1997, the appellant again raped her. Appellant strangled her and threatened her with a knife. The appellant removed her panty and inserted his penis in her vagina but she did not complain because she was being threatened.^[12]

AAA was again raped by the appellant in the sala of their house at nighttime of June 5, 1997 while her siblings were asleep. The appellant removed her panty and inserted his penis into her vagina; then her vagina bled and she felt pain. AAA recalled that the appellant was on top of her while she was lying on the floor. The appellant was not wearing anything. AAA neither fought nor complained because she was threatened by the appellant.^[13]

AAA stated that there was an interval of one day between the third and fourth rapes. It was the nighttime of July 5, 1997^[14] when the appellant violated her on the fourth occasion inside their bedroom. The appellant told EEE,^[15] AAA's brother, to go to their neighbor's house while AAA's other siblings were sleeping. The appellant removed AAA's underwear and inserted his fingers into her vagina. AAA was lying on the floor and her legs were spread apart. Appellant then mounted AAA and inserted his organ into the latter's vagina. AAA felt pain and her vagina bled.^[16] AAA did not complain because she was afraid of her father.

The fifth rape occurred in the daytime of July 6, 1997^[17] also in the room of their house. The appellant ordered AAA's siblings to go fishing except AAA's three-year old sibling who was asleep in the house. AAA was forced to lie down, in spread eagle position, as the appellant went on top of her, removed her underwear and inserted his penis into her vagina. AAA said that she did not shout for help because she feared that the appellant might do the same to her sisters. Also, she could not push or beat the appellant because he was bigger.^[18]

AAA thereafter told her brother, EEE about what happened. She and her siblings then reported the incident to the *barangay kagawad* of Danayan, *Kagawad* Mauro Dalan and later, to *Kagawad* Ramon Nacido. With the assistance of the two *barangay* officers, they were then brought to the police station in *Poblacion* for a sworn statement.^[19]

Ms. Melinda Reyes, a social worker in Capalonga, met AAA on July 8, 1997 complaining about her father's abuse. After taking AAA to the Camarines Norte Provincial Hospital for a medical examination, Ms. Reyes assisted AAA in filing charges before the Municipal Trial Court of Capalonga/Sta. Elena, Camarines Norte. Also, she conducted a Social Case Study of AAA and the appellant.^[20] On the other hand, Ms. Jessica Oscillada, a social worker at the DSWD Children's Home for Girls, Sorsogon, testified that AAA had been residing in the said facility since September 9, 1997.^[21]

On July 9, 1997, Dr. Marcelito B. Abas, a medico-legal officer in Camarines Norte Provincial Hospital, Daet, Camarines Norte conducted a genital examination on AAA. She had fresh and superficial hymenal lacerations at five (5), eight (8), and eleven (11) o'clock positions, and deep lacerations at two (2) and six (6) o'clock positions in her vagina which could have been caused by the penetration of an erect penis. The patient's vagina admitted one finger with slight difficulty which indicated that AAA was no longer a virgin. There were no physical injuries in the surrounding parts of the patient's vagina. On cross-examination, Dr. Abas stated that while a hard object or finger may cause the fresh lacerations, a finger could not cause multiple and deep lacerations. He found no blood or seminal fluid in the patient's organ.^[22]

Appellant, on the other hand, denied all the accusations of his daughter. He testified that his wife died on May 27, 1997 and was buried the following day. Prayers were held in their house every afternoon until July 6, 1997. He said that he usually fetched the person who led the prayers and that after the prayers, he prepared supper for his children and then left to work in the fishpond. He also said that he worked as a watchman until around 4:00 a.m. Lastly, he claimed that he did not know the reason for his daughter's accusations.^[23]

Although AAA's sworn statement^[24] mentioned five occasions of rape, the Complaint^[25] mentioned only the incident on July 6, 1997, which became the subject of Criminal Case No. 97-0229. The charges of rape committed on June 1, 3, and 5, and July 5, 1997 were not supported with the required complaints in accordance with Section 5, Rule 110 of the 1985 Rules on Criminal Procedure.

On June 26, 2002, the Camarines Norte RTC rendered the assailed judgment, the *fallo* of which reads:

WHEREFORE, in view of the foregoing facts and circumstances, accused ROMEO BUBAN who is the father of [AAA], a 12-year old minor at the time of the incidents subject of the above-entitled cases is hereby found GUILTY beyond reasonable doubt of RAPE defined and penalized under Article 335 of the Revised Penal Code as amended by Section 11 of R.A. No. 7659. Accordingly, accused ROMEO BUBAN is hereby sentenced to suffer the maximum penalty of DEATH and to pay the victim [AAA] the sum of FIFTY THOUSAND PESOS (P50,000.00) as moral damages and SEVENTY FIVE THOUSAND PESOS (P75,000.00) as civil indemnity and the additional amount of TWENTY THOUSAND PESOS (P20,000.00) as exemplary damages.

The accused who is presently detained at the Provincial Jail at Daet, Camarines Norte is ordered immediately transferred to the New Bilibid

Prisons, Muntinlupa City.

SO ORDERED.^[26]

The Court observes that the trial court did not explicitly state in the aforequoted *fallo* that Criminal Case Nos. 97-0226, 97-0227, 97-0228, and 97-0230 were dismissed. Said dismissal is however implied from the body of the Judgment where the RTC concluded that there was no legal basis to convict the appellant for the alleged rape committed on June 1, 1997 (Criminal Case No. 97-0226), June 3, 1997 (Criminal Case No. 97-0227), June 5, 1997 (Criminal Case No. 97-0228), and July 5, 1997 (Criminal Case No. 97-0230), thus:

While alibi and denial are the weakest defenses, this court, however, would have no legal basis to convict the accused on the charges of rape allegedly committed on the private complainant by her father on the following dates: June 1, 1997, June 3, 1997, June 5, 1997 and July 5, 1997 since the same were not supported with the required complaints. Under Rule 110, Section 5 of the 1985 Rules on Criminal Procedure, the offense of rape shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents or guardian. In the case of *People vs. Oso*, 62 Phil. 271, the Supreme Court held that "where no valid complaint was ever filed and signed by the offended party, the court does not acquire jurisdiction to try the case even if no objection thereto was interposed in the trial court or no such error was arraigned or appeal [sic], questioning the jurisdiction of the lower court as such failure does not cure a fatal defect and mere silence or acquiescence of the accused cannot confer jurisdiction on the court."^[27]

The prosecutor filed a Motion for Reconsideration contending that 1) the Complaint was supported by AAA's sworn statement which categorically stated that AAA was raped by the appellant five (5) times; 2) five (5) Informations were filed against the accused; 3) a resolution from the provincial prosecutor indicted the accused for five counts of rape; and 4) the law merely prescribes the filing of a valid complaint by the offended party but does not prescribe that a complaint will be filed for each date/count/ occurrence of the offense.^[28] The Camarines Norte RTC ruled that the Motion for Reconsideration was one day late and denied it in its September 6, 2002 Order.^[29] The prosecution did not question anymore the dismissal of the aforementioned four (4) criminal cases.

The imprecise judgment of the Camarines Norte RTC leaves much to be desired as it failed to specify the exact criminal case wherein the appellant was convicted and the four other cases wherein he was exonerated. Trial courts are reminded to be extremely cautious in crafting the decretal portion of the decision considering that the dispositive portion or the *fallo* is what actually constitutes the judgment of the court in a particular case. The body of the decision which contains the discussion and resolution of factual and legal issues may be relied upon to know the basis for the decision but nevertheless, it is still the *fallo* that is the actual determinant of the rights of the parties and sole basis for execution. Because the *fallo* is the only repository of the dispositions in the case, it has to be clear without equivocation and complete as to its contents.