

## FIRST DIVISION

[ G.R. NO. 169083, August 07, 2006 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARDEL CANUTO,  
APPELLANT.**

### DECISION

**CALLEJO, SR., J.:**

Before the Court on appeal is the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR No. 00705 affirming the ruling<sup>[2]</sup> of the Regional Trial Court (RTC) of Iriga City in Criminal Case No. IR-5813, convicting appellant Ardel Canuto of rape.

#### The Case for the People

Efren Bayrante and his wife Teresita Bolo had three (3) children. One of them, Emily, was born on April 19, 1984.<sup>[3]</sup> The family resided in *Barangay* Carangay, Baao, Camarines Sur. Efren passed away sometime later.

In 1991, Teresita began living with Ardel Canuto, an ex-convict. Teresita's mother, Carmen, objected to the relationship. Carmen insisted that Emily and her siblings reside with her. Carmen's house<sup>[4]</sup> was about 80 to 100 meters away from where Teresita and Ardel lived.<sup>[5]</sup> Teresita complied and had Emily brought to her mother's house where her cousins, nine-year old Jennifer, seven-year old Rose-Ann and three-year old Jennilyn, all surnamed Gonzales, also resided.<sup>[6]</sup>

On June 26, 1999, Carmen left her house to go to the *poblacion* to assist someone who was delivering a child. Emily and her cousins were left at the house. At about 9:00 p.m., while Emily was sleeping in a room illuminated by a gas lamp and about a meter away from where her cousins were sleeping,<sup>[7]</sup> she was suddenly awakened by something sharp, poking on the left side of her neck. She was shocked to see that it was Ardel, holding the ice pick with his right hand. He warned her not to make any noise, otherwise, she would be killed. Emily was powerless as Ardel removed her shorts and panty. He then removed his shorts and mounted her, placed his legs between hers and had his way with her. Emily felt pain. After a minute or two, Ardel dismounted. Before he left the house, he warned the petrified girl not to tell anyone what he had done, or else, he would kill her.<sup>[8]</sup>

When her grandmother arrived home the next day, June 27, 1999, Emily did not tell her that Ardel had raped her the night before. Remembering his threats to kill her, Emily likewise did not reveal her ordeal to her mother.

At about 11:00 p.m. on June 28, 1999, Ardel raped Emily again.<sup>[9]</sup> She once more kept the incident to herself for fear that she would be killed.

Sometime in August 1999, Emily was raped anew, this time, by Ricardo Brisenio. As a result, she became pregnant. When she learned that her niece was pregnant, Irma Boncayao, a businesswoman, fetched her and brought her to her home in Agos, Bato, Camarines Sur. Irma intended to adopt the baby because she was childless. At that time, Irma did not know who the father of Emily's baby was. It was only later that she learned that Ricardo Brisenio had impregnated Emily.<sup>[10]</sup>

However, Irma noticed that Emily was sad and restless. At about 6:00 p.m. on January 10, 2000, Irma brought Emily to Naga City and bought clothes for her. Worried, Irma asked what was bothering her, and it was then that Emily revealed that she had been raped by Ardel and Ricardo. Emily was trembling with fear and crying as she related how Ardel and Ricardo had raped her.<sup>[11]</sup> Emily embraced Irma and pleaded for help.<sup>[12]</sup>

Irma forthwith fetched Teresita and Carmen and brought them to her house where Emily recounted how she had been taken advantage of by Ardel and Ricardo. The three then brought Emily to Dr. Catherine O. Buban who examined the girl on January 11, 2000. The doctor found hymenal lacerations at 4, 7, 8, 9, and 12 o'clock positions, and declared that Emily was about 5 to 6 months pregnant,<sup>[13]</sup> scheduled to deliver the baby by May 2000.<sup>[14]</sup>

On January 13, 2000, Emily filed a criminal complaint for rape against Ardel Canuto with the Office of the Public Prosecutor of Camarines Sur. Her mother, Teresita signed the complaint and executed an affidavit before the public prosecutor on the same day. She alleged, *inter alia*, the following:

*Na noong ika-11 ng Enero 2000, dinala namin ang aking anak na si Emily sa [doctor] upang patingnan kung positibong buntis ito at nang kami ay umuwi na, sinabi sa akin ng aking bayaw na si Erma (sic) Boncayao, na kasama naming sa pagpunta sa doctor, na nagtapat sa kanya si Emily na ito raw ay ginahasa din ng aking pangalawang asawa na si ARDEL CANUTO noong buwan ng Hunyo 1999 at ito rin ang nakabuntis kay Emily.*<sup>[15]</sup>

Emily also filed a criminal complaint for rape against Ricardo Brisenio with the Office of the Public Prosecutor.

Two Informations for rape were filed against Ardel Canuto with the RTC of Iriga City, docketed as Criminal Cases Nos. 5814 (raffled to Branch 37) and 5813 (raffled to Branch 35). The Information in the latter case reads:

That on or about the 26th day of June 1999, in [B]arangay Caranday, Municipality of Baao, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then her stepfather, with lewd design, by means of force and intimidation, while armed with an ice pick, did then and there willfully, unlawfully and feloniously have carnal knowledge with his stepdaughter Emily Bayrante y Bolo, a 15-year-old girl, against her will and consent, to the damage and prejudice of the offended party in such amount as may be proven in court.

ACTS CONTRARY TO LAW.<sup>[16]</sup>

### **The Case for the Appellant**

Ardel interposed the defenses of denial and alibi. He testified that he was a farmer by profession. On June 26, 1999, he planted corn from 7:00 a.m. to 5:00 p.m. in their farm near their house as he usually did. When he arrived home, his wife, Teresita, and their four children were in the house. They had dinner at 6:30 p.m. and rested at 7:00 p.m. He woke up at 8:00 a.m. the next day.<sup>[17]</sup> He denied having raped Emily. His wife Teresita told him that Ricardo Brisenio had raped Emily.<sup>[18]</sup> He was so incensed when he learned this that he and his wife rushed to the house of Ricardo and confronted him. Ardel admitted that he and Emily had no ill-feelings against each other before June 26, 1999.<sup>[19]</sup>

Teresita corroborated the testimony of Ardel. She declared that she and Ardel had four children: Arnold, 11 years old; Mary Jane, 9 years old; Jason, 7 years old; and Aileen, 5 years old. On the night in question, they had dinner in their house at 6:00 p.m. and went to bed afterwards.<sup>[20]</sup> When she woke up at 4:00 a.m. to answer the call of nature,<sup>[21]</sup> Ardel was in the house, still sleeping. She declared that her Affidavit dated January 13, 2000 was not explained to her. She only finished Grade IV and could not read or write except her name and family name.<sup>[22]</sup> She also admitted that she and Emily had a good relationship before June 26, 1999.<sup>[23]</sup>

Emily testified on rebuttal and declared that her mother, Teresita, signed her Affidavit on January 13, 2000. Her mother testified for Ardel because according to her mother, it was better to lose a child than to lose a husband.<sup>[24]</sup> She delivered her baby on May 4, 2000.<sup>[25]</sup>

### **The Ruling of the Trial Court**

On April 1, 2003, the trial court rendered judgment convicting Ardel of rape. The *fallo* of the decision reads:

WHEREFORE, in view of all the foregoing, the prosecution having successfully proved the guilt, of accused Ardel Canuto beyond reasonable doubt, he is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and is hereby ordered to indemnify Emily Bayrante in the amount of Fifty Thousand (P50,000.00) Pesos and Fifty Thousand (P50,000.00) Pesos as moral damages.

SO ORDERED.<sup>[26]</sup>

The RTC rejected Ardel's defenses of denial and alibi, and gave credence and full probative weight to Emily's testimony that she had been raped by Ardel. It also declared that the prosecution failed to prove that Ardel had been lawfully married to Teresita, hence, was merely the latter's common-law husband.<sup>[27]</sup> Consequently, the court sentenced Ardel to *reclusion perpetua*.

Ardel appealed the decision to this Court, which, however, transferred the case to

the Court of Appeals (CA) in deference to the ruling in *People v. Efren Mateo*.<sup>[28]</sup>

### **The Ruling of the Appellate Court**

Ardel averred in his Brief before the CA that the trial court erred in giving credence to the testimony of the prosecution witnesses and, consequently, erred in convicting him of rape.<sup>[29]</sup> He insisted that his guilt was not proven beyond reasonable doubt and that he adduced clear and convincing evidence to prove his alibi. His testimony was corroborated by Teresita Bolo who is the mother of Emily. He averred that he should not be charged and convicted of the crime committed by Ricardo Brisenio.

On April 22, 2005, the CA rendered judgment affirming the decision of the trial court,<sup>[30]</sup> hence, the instant appeal, where Ardel, as appellant, adopted his Brief in the CA as his Supplemental Brief in this Court.<sup>[31]</sup>

### **The Ruling of the Court**

The appeal has no merit.

We have reviewed the evidence on record and find that, indeed, the prosecution adduced evidence to prove beyond reasonable doubt that the appellant raped Emily at about 9:00 p.m. on June 26, 1999 in the house of Carmen Bolo. The victim narrated in a spontaneous and straightforward manner how she was defiled by the appellant, thus:

Q Do you know the accused in this case, Ardel Canuto?

A Yes, Sir.

Q If he is in court, kindly point to him.

INTERPRETER:

Witness pointed to a man inside the courtroom who answered to the name (sic) Ardel Canuto.

PROS. RAMOS:

Q Why do you know him?

WITNESS:

A Because he is my mother's husband.

Q But who is your real father by blood?

A My father's name is Efren Bayrante and he is already dead.

Q And can you still remember when was that that the accused became your stepfather?

A Yes, Sir.

Q How old were you then when the accused became your stepfather?

A Seven years old.

Q And (sic) the accused became your stepfather, you, your mother and the accused lived together as a family?  
A Yes, Sir.

Q Right. On June 26, 1999 at around 9:00 in the evening, where were you?  
A I was at our residence.

Q And where is your residence located?  
A Caranday, Baao.

Q And (sic) that date June 26, 1999, who were staying in your house?  
A My cousins.

Q How about your mother and stepfather? Who else are staying there, if any?  
A There are only four who are staying there.

Q Who are they?  
A Jennifer, Jenny, Rose-Ann and Jennilyn.

Q And who are (sic) the actual or real owner[s] of that house where you were staying?  
A My grandmother.

Q What is her name?  
A Carmen Bolo.

Q And where was your grandmother then on June 26, 1999?  
A She was not around. She went to the *poblacion*.

Q Right. While you were there at your residence on June 26, 1999 at around 9:00 p.m., what happened, if any?  
A He suddenly entered the house.

Q You are referring to the accused you just pointed a while ago as the person who suddenly entered your house?  
A Yes, Sir.

Q And what happened next when the accused suddenly entered your house?  
A He pointed an icepick at me.

Q In what part of [your] body did the accused point you?  
A Here. (Witness pointing to her neck)

Q After the accused poked his icepick to your neck, what happened next?  
A He was already undressing.

Q And by the way, what did he say, if any, to you?