

EN BANC

[G.R. No. 144402, August 14, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO ECLERA,
SR., APPELLANT.**

DECISION

PER CURIAM:

This is an automatic review of the decision^[1] of the Regional Trial Court, Branch 46, Urdaneta City, in Criminal Case No. U-10446 finding herein appellant Romeo Eclera, Sr. guilty beyond reasonable doubt of the crime of qualified rape and sentencing him to suffer the penalty of death.

The accusatory portion of the information filed by Assistant Provincial Prosecutor Emma Ines-Pajaras read as follows:

That on or about September 22, 1999, in the afternoon, at [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threats and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with his own daughter, herein complainant AAA, a minor, 17 years old, against her will, to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by Republic Act Nos. 7659 and 8353.^[2]

Upon arraignment^[3] on January 10, 2000, appellant Romeo Eclera, Sr., assisted by counsel, pleaded not guilty. Thereafter, trial on the merits ensued.

The prosecution presented three witnesses: Dr. Gloria Araos-Liberato, the medico-legal officer who examined the complainant; [REDACTED], mother of the complainant and wife of appellant; and complainant AAA. On the other hand, five witnesses testified for the defense: Florida Monce and Salome Tiong, professors of complainant AAA at the Pangasinan State University (PSU); Teresita Mamalio, a social worker of the Department of Social Welfare and Development (DSWD), Asingan Branch; SPO3 Fausto Marzan, PNP Asingan; and appellant Romeo Eclera, Sr.

As testified to by prosecution witnesses, the facts of the case are as follows:

Complainant AAA is the sixth child of appellant Romeo Eclera, Sr. and [REDACTED], who were married sometime in 1974. At the time of the rape, AAA was a 17-year-old, first year college student at the PSU in Asingan, Pangasinan.

On September 22, 1999, at around 4:00 p.m., AAA arrived home from school and went straight to her room to change her clothes. As she was dressing up, her father,

herein appellant, entered her room. He approached her from behind, touched her breasts and kissed her lips. Then, he forced her to lie down on the floor and mounted her. Appellant pinned both hands of the victim with one hand while his other hand raised her shirt and removed her shorts and underwear. Appellant then pulled down his pants and underwear to his knees and caressed his penis before partially penetrating AAA. She felt pain in her vagina. Appellant made a push and pull movement for about two minutes. Then, AAA felt a hot substance come out of his penis into her vagina. At this point, she kicked appellant, causing him to loosen his hold on her. AAA hurriedly put on her clothes, ran to the rice field where her mother [REDACTED] was working and reported the incident to her.^[4]

When confronted by his wife [REDACTED] about the incident, appellant denied having raped AAA. He even beat up [REDACTED] and threatened to kill her and AAA if they ever report the matter to the police.^[5]

The following day, September 23, 1999, [REDACTED] went to the DSWD, Asingan Branch, and reported the incident to Teresa Mamalio, a social worker. However, Mamalio advised [REDACTED] to go to DSWD, Urayong, Bauang, La Union Branch, as she was also scared of appellant, who was at that time a barangay captain of [REDACTED].

Thus, [REDACTED] brought AAA and her four daughters to the DSWD in La Union. They reported the matter to Maricel Seria, also a social worker, but it was only a month later or on October 25, 1999, when AAA executed a complaint-affidavit against appellant. Upon the execution of her complaint-affidavit, AAA was examined at the Asingan Community Hospital by Dr. Gloria Araos-Liberato whose findings were as follows:

A. External Findings:

1. No evident signs of extragenital physical injuries noted on the body of the subject at the time of examination.

B. Internal Findings:

1. Healed incomplete hymenal laceration at 9:00, 3:00 and 7:30 o'clock position.

For his defense, appellant interposed denial. He testified that, on the day of the alleged rape incident, he was at the house of Vice Mayor Piso who invited him and a certain Barangay Captain Cloma to dine and drink. He stayed at the Vice Mayor's house in Asingan until past 4:00 p.m. Thereafter, he passed by the house of an Iglesia ni Cristo minister because a deacon requested him to come in connection with a complaint filed by his wife [REDACTED]. When he arrived home at past 5:00 p.m., his wife [REDACTED] and children [REDACTED], [REDACTED], [REDACTED], [REDACTED], AAA and [REDACTED] were all inside the house watching television.

To corroborate his testimony, appellant presented a neighbor, Josefina Gromio, who testified that her house was only about two arms' length away from the [REDACTED] house. The whole day of the incident, she was at home, tending to her sari-sari store in front of her house. She saw appellant arrive around 5:00 p.m. and a few minutes later, come to her store to buy a cigarette. She also disclosed that

██████████ and AAA never went to the ricefield and just stayed in their house all day.
[7]

Appellant assailed the credibility of AAA by presenting her teachers, Florida Monce and Salome Tiong, who testified that they had already dropped AAA from their classes prior to September 22, 1999. Thus, AAA was lying when she testified that she came from school before the alleged rape incident.

Appellant also assailed the credibility of his wife ██████████ and argued that her motive in testifying against him was to get back at him for maltreating her. To prove his point, he presented SPO3 Fausto Marzan who testified that, on September 23, 1999, the day after the alleged rape incident, ██████████ reported to the police that her husband mauled her but failed to mention the alleged rape of AAA.

On June 19, 2000, the trial court rendered its decision, the dispositive portion of which read:

WHEREFORE, JUDGMENT is hereby rendered, CONVICTING ROMEO ECLERA, SR. of Rape aggravated by relationship between father and daughter aged below 18 years old and the court sentences ROMEO ECLERA, SR. to suffer the penalty of DEATH to be implemented in the manner as provided for by law; the accused is likewise ordered to indemnify AAA the sum of P75,000.00 for moral damages and another sum of P50,000.00 as exemplary damages without any subsidiary imprisonment.

The Branch Clerk of Court of this court is hereby ordered to prepare the mittimus and to transmit the whole records of this case to the Supreme Court of the Philippines for automatic review immediately.

The Warden, Bureau of Jail Management and Penology (BJMP), Urdaneta District Jail, Urdaneta City, Pangasinan, is hereby ordered to deliver the living body of Romeo Eclera, Sr. to the National Bilibid Prisons, Muntinlupa City, immediately upon receipt of this Decision.

SO ORDERED.[8]

In his Brief, appellant assigns the following errors:

I

THE LOWER COURT ERRED IN ACCORDING WEIGHT AND CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT DESPITE ITS LACK OF CREDIBILITY.

II

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT.[9]

The Solicitor General recommends that the decision of the trial court be affirmed, the same being in accordance with law and the evidence on record, subject, however, to a modification on the award for exemplary damages which should be decreased from P50,000 to P25,000 pursuant to prevailing jurisprudence.

After a careful study of the records, we are convinced that the appellant is guilty of qualified rape.

Article 335 of the Revised Penal Code, as amended by RA 7659, provides that rape maybe committed by having carnal knowledge of a woman through force and intimidation. In the case at bar, the prosecution was able to prove beyond reasonable doubt that appellant raped his daughter AAA by having carnal knowledge of her through force and intimidation. His denial cannot prevail over her positive and categorical testimony^[10] which the trial court found to be truthful:

FISCAL TOMBOC: In what particular part of your house were you when you were changing your clothes then?

A In my room, sir.

Q While you were changing your clothes in your room, was there any incident that happened?

A There was, sir.

Q What was that?

A My father entered the room, sir.

Q When your father entered the room, what did he do?

A He went at my back and he held my breast and kissed my lips.

Q So when your father went at your back, held your breast, kissed your lips, what happened next?

A He pushed me on the cement, sir.

Q What is this cement you are referring to?

COURT: You are referring to the flooring?

A Yes, sir.

FISCAL TOMBOC: What part of the house is that flooring?

A In my room, sir.

Q So, he pushed you to the cemented flooring of the room?

A Yes, sir.

Q So at that time when your father pushed you to the cemented flooring of the room, what was your position when he pushed you to the cemented flooring?

A I was able to lie down on the cemented flooring, sir.

Q After that when you were made to lie down on that cemented flooring by your father, what else happened?

A He held both of my hands, raised my shirt and lowered my shorts together with my panty.

COURT:How can he do that when he was holding both of your hands?

A Because he went on top of me, sir.

Q He held both of your hands?

A Yes, sir.

Q After holding both of your hands, what else did he do?

A He removed his pants, sir.

Q On you?

A He forced his organ to insert (sic) in my vagina.

Q Not yet. You said a while ago, he held both of your hands and then he raised, what did he raise on your body?

A My shirt, sir.

Q Up to what part of your body?

A Up to here, sir (witness demonstrating up to her shoulder above her breast).

Q What else did he do after raising your shirt?

A He lowered my short and panty, sir.

COURT:Go ahead Fiscal.

FISCAL TOMBOC: After your father raised your shirt and lowered your short and panty, what did he do next, Madam Witness?

A He forced to insert (sic) his penis in my vagina, sir.

Q Madam Witness, what was your father wearing at that time when he raised your shirt and lowered your short and panty?

A He was wearing pants, sir.

COURT:When he inserted his organ to your organ, what was he wearing?

A None, sir.