

EN BANC

[G.R. Nos. 135844-45, November 24, 2003]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DOMINADOR ILUIS Y JANDOC, APPELLANT.

D E C I S I O N

CALLEJO, SR., J.:

Before us on automatic appeal is the decision^[1] of the Regional Trial Court of Villasis, Pangasinan, Branch 50, convicting the appellant of three (3) counts of rape, and sentencing him to suffer the death penalty for each count.

The Case for the Prosecution

The appellant Dominador Iluis and his wife [REDACTED] have two daughters, namely, AAA who was born on February 24, 1983,^[2] and BBB who was born on September 5, 1986.^[3] Sometime in September 1993, the appellant and [REDACTED] parted ways. [REDACTED] found employment in Baguio City, and later resided in Barangay Pulong Cacutod, Angeles City, with her common-law husband, Sauro Notarte. The appellant and his two daughters resided in [REDACTED], near the house of the appellant's parents.

On October 2, 1995, at 6:30 p.m. BBB, who was then nine years old, was sleeping beside the appellant and her sister AAA. BBB suddenly awoke and was petrified when she saw her father tying her hands. He then forced BBB to spread her legs and got on top of her. The appellant inserted his penis into her vagina. BBB felt pain in her vagina.^[4]

Sometime that same month, AAA, her sister BBB and their father, the appellant, were sleeping side by side.^[5] AAA was wearing a pair of shorts and a t-shirt. She was shocked when she woke up and saw her father mashing her breasts and her private parts. He poked a bolo at her and threatened to kill her if she shouted.^[6] She turned to her side, in an attempt to avoid being sexually abused by her father. However, the appellant forced AAA to lie down on her back.^[7] He then removed her shorts and her panties.^[8] He also undressed himself, went on top of her and inserted his penis into her vagina. AAA felt intense pain as the appellant made push-and-pull motions.^[9] Satiated, the appellant dismounted and slept.^[10] BBB was so distraught and so angry at her father that she was unable to sleep. She could not understand why her own father would sexually abuse her. She only managed to sleep at around 5:00 a.m. When she woke up barely an hour later, the appellant was no longer in their house.^[11] AAA went to the house of her aunt, her mother's cousin [REDACTED], and told the latter that her father had mashed her breasts and her private parts. AAA's vagina was so painful that she walked in a "bow-legged

manner."^[12] She did not tell her aunt that her father raped her because AAA feared that the appellant would kill her if she did so.^[13]

On August 2, 1996, at 3:00 p.m., AAA was in the house of their neighbor viewing television. BBB was in their house resting.^[14] Momentarily, the appellant threw a ball at BBB. Feeling suddenly afraid, she tried to run away from the house but the appellant immediately closed the door.^[15] He ordered BBB to remove her dress but she refused. He then removed her clothes himself and forced her to lie down on the floor. He undressed himself and inserted his penis into her vagina. BBB felt excruciating pain. She opted to keep the incident to herself because she was afraid that her father might kill her.^[16]

On August 29, 1996, BBB left her father and lived with her mother in Angeles City. AAA followed suit on September 21, 1996.^[17] ██████ noticed that her daughters were disoriented (*tulala*).^[18] Sensing that there was something wrong, she asked them what their problems were, but the children denied that they had any. When ██████ persisted and asked her daughters anew, the latter merely cried and gave the same reply. BBB and AAA later told their mother that "they did not want her to be a criminal."^[19]

On September 30, 1996, ██████ heard BBB muttering in her sleep, "You are a pig, you are a useless father," "Painful! Painful!" She saw BBB place her pillow on top of her private parts.^[20] When ██████ asked her about it, BBB finally told her mother that her father had raped her. AAA also revealed that her father had mashed her breasts and tried to insert his penis into her vagina. ^[21]

On October 4, 1996, ██████, with the help of a friend, brought her two daughters to Atty. Alfredo V. Ferrer, the Legal Officer of the Commission on Human Rights, Region III. Atty. Ferrer directed Investigators Joel Bon Harris Ocampo and Ernesto Enolpe to conduct an investigation on the rape incident. The two victims gave their sworn statements to Atty. Ferrer.^[22]

Dr. Mildred M. Mariano of the Jose B. Lingad Memorial Regional Hospital, conducted genitalia examinations on AAA and BBB on October 7, 1996, and issued Medical Certificates thereon. Her findings on her examination of BBB are as follows:

EXTERNAL GENITALIA & PERINEUM:

LABIA MAJORA:

LABIA MINORA:

HYMEN: Laceration, incomplete, superficial, healed at 9 o'clock position.

LABORATORY REQUEST:

Pregnancy test - negative

Smear for Spermatozoa - negative^[23]

On her examination of AAA's genitalia, the doctor made the following findings:

...

HYMEN: Laceration, incomplete, superficial, healed at 5,7 & 9 o'clock positions.

PELVIC EXAM:

Cervix firm, closed, uterus small, adnexae negative, no bleeding.

LABORATORY REQUEST:

Pregnancy test - Negative

Smear for Spermatozoa - Negative.^[24]

On October 28, 1996, BBB and AAA filed separate criminal complaints for rape against the appellant with the Municipal Circuit Trial Court of Villasis- Sto. Tomas.^[25]

On May 17, 1997, an Information docketed as Criminal Case No. V-0730 was filed charging the appellant with rape, the accusatory portion of which reads:

That during the month of October 1995, at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, against the latter's will and consent, to the damage and prejudice of said AAA.

Contrary to Art. 335 of the Revised Penal Code.^[26]

Another Information docketed as Criminal Case No. V-0731 was filed charging the appellant with two counts of rape. The accusatory portion reads, thus:

That on or about October 2, 1995 and August 2, 1996, at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously, have sexual intercourse with one BBB, being below twelve (12) years old, against the latter's will and consent, to the damage and prejudice of said BBB.

Contrary to Art. 335 of the Revised Penal Code.^[27]

The appellant was arraigned in the said cases, assisted by counsel, and entered his respective pleas of not guilty. A joint trial of the cases ensued.

The Defense of the Appellant

The appellant denied raping her daughters. He testified that he finished only Grade I and, except for his name, did not know how to read and write.^[28] After his marriage to [REDACTED], they lived with the latter's parents in Tabor, Malasiqui, Pangasinan, for

two years.^[29] Thereafter, he built a house for his family in [REDACTED], about 300 meters away from the house of his parents, the spouses Igmidio and Basilisa Iluis.^[30] Sometime in January 1993, he and his wife parted ways. [REDACTED] worked for a time in Baguio City, but later became the paramour of Romeo Notarte.^[31] Thereafter, his two daughters BBB and AAA stayed with his parents.^[32] He continued residing at his house because he worked in the farmland of his brother in Villasis, Pangasinan and could not take care of his daughters.^[33] Every now and then, however, he visited his daughters at his parents' house and gave them money.^[34]

Sometime in October 1996, [REDACTED] saw Barangay Captain Sergio C. Fernando, Sr. and casually told the latter about her marital problems. [REDACTED] apparently wanted to sell the land which she and her husband owned, but the latter had objected to this proposal.^[35] The property had been mortgaged, but [REDACTED] wanted to sell the property so that she and her husband could divide the proceeds of the sale. ^[36] Fernando, Sr. called the couple to a conference. Also in attendance was Igmidio, the appellant's father, who talked to the appellant about the problem. ^[37] The appellant later told Fernando, Sr. that he had no objection to the sale, provided that it be done in May 1997 after the harvest of the tobacco planted on the land. ^[38] [REDACTED] was disheartened by the appellant's refusal to immediately sell the property.

Igmidio Iluis corroborated his son's testimony. He testified that the appellant stayed in the house of his brother in *Barangay* Aboridos, Villasis, Pangasinan, although the appellant also stayed in his own house on Sundays, from 8:00 a.m. to 1:00 p.m. ^[39]

After due trial, the trial court rendered judgment, the decretal portion of which reads:

WHEREFORE, based on the foregoing, the accused is hereby found guilty beyond reasonable doubt of one (1) count of rape in Criminal Case No. V-0730 and two (2) counts of rape in Criminal Case No. V-0731, and is, accordingly, hereby sentenced to suffer for each count, the extreme penalty of death, with all its accessories.

The accused is hereby further ordered to pay each of the complainants the amount of P50,000.00 for each count of rape as indemnification, P50,000.00 as moral damages and P50,000.00 as exemplary damages.

SO ORDERED.^[40]

The appellant assails the decision of the trial court contending that:

1. The trial court, Regional Trial Court, First Judicial Region, Branch 50, Villasis, Pangasinan, erred in not acquitting accused- appellant for three (3) counts of the crime of rape for failure of the prosecution to establish the guilt of accused-appellant beyond reasonable doubt; and

2. The trial court erred in not giving weight and credence to the defenses of the accused-appellant.^[41]

We shall delve into and resolve the issues raised by the appellant simultaneously, as they are interrelated.

The appellant avers that the testimonies of BBB and AAA are inconsistent with that of their mother, ████████. BBB and AAA testified that they were raped in the conjugal home of their parents, whereas, ████████ testified that her daughters were, at the time, residing in the house of her parents-in-law, Igmidio and Basilisa Iluis. The appellant asserts that the allegation that he poked his bolo on AAA before raping her is exaggerated; so is BBB's testimony that before she was raped, her hands were tied together and her legs forced apart. The appellant, likewise, contends that the testimonies are incredible because although BBB claimed that her father raped her twice, first on October 2, 1995 and again on August 2, 1996, and AAA claimed she was raped sometime in October 1995, the criminal complaints against him were filed only on October 28, 1996. The appellant further alleges that the inordinate delay in the filing of the two complaints belied his daughters' collective claims that he had raped them. According to the appellant, ████████ was peeved by his obstinate refusal to sell their property. Because of this, ████████ concocted the charges against him and forced her daughters to admit that their father had raped them.

The contention of the appellant does not persuade. ████████ did not testify that her daughters were raped in the house of her parents-in-law. She is incompetent to testify on the matter as she was then residing in Angeles City with her paramour.^[42] ████████'s testimony cannot prevail over the collective testimonies of AAA and BBB that they were raped by the appellant in their house. The appellant even testified that he built a house for himself and his two daughters after ████████ had abandoned them.^[43]

AAA's testimony that the appellant used a bolo to intimidate her, and tied BBB's hands together before forcing the latter to open her legs to facilitate the entry of his penis are not exaggerations. With BBB's hands tied, it was easier for the appellant to force her to open her legs and thus consummate the rape. Neither is it incredible that the appellant used a bolo to intimidate her daughter. It bears stressing that BBB was sleeping when the appellant raped her. The appellant had to use a bolo to intimidate her into submitting herself to his lust, so as not to give her any opportunity to awaken her sister AAA.

It is indeed incomprehensible that a father would be capable of doing such a fiendish act to his own daughters. But this Court has held that rape is an act of depravity and lust. There is no rhyme or reason for such beastly act. ^[44]

BBB and AAA cannot be blamed for their failure to reveal their ordeal to their mother immediately or shortly after they were raped by their father. ████████ was then living with her paramour in Angeles City. However, the very next morning, AAA told her Aunt ████████ that the appellant had molested her. AAA did not reveal that she was in fact raped by her father because the latter had threatened her. AAA was afraid; in fact, she was trembling as she talked to her aunt.