

EN BANC

[G.R. No. 138987, February 06, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO RODRIGUEZ, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

Not only did the victim, Mary Ann Rodriguez, traumatically and painfully lose her virginity and psychological well-being when her father, the accused, ravaged her. She also lost her family when her mother refused to believe her harrowing tale and, along with her siblings, testified against her. But all is not lost, for at least, the arms of the law will rightfully coddle her and the blind lady of justice will dispense justice due her.

A complaint was filed against the accused Rodolfo Rodriguez on January 23, 1998, viz:

"The undersigned, in behalf of MARY ANN B. RODRIGUEZ, who is a minor, 16 years of age (,) accuses RODOLFO RODRIGUEZ, whose maternal surname, date and place of birth cannot be ascertained (,) of the crime of RAPE (Art. 335, RPC), committed as follows:

That on or about the 13th day of June, 1997, in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of MARY ANN RODRIGUEZ against her will.

CONTRARY TO LAW."^[1]

Mary Ann Rodriguez, the private complainant, is the daughter of the accused Rodolfo Rodriguez. She lived with him, her mother Irene, her siblings PJ, Monyeen, Josie, Paul and Andrew, and her seventeen year-old cousin, Edlin Taonera, in Barangay Salvacion, Habog-Habog, Molo, Iloilo City. The Rodriguez family lived in a two-story house with one bedroom on the second floor and two bedrooms on the ground floor, one near the kitchen and the other near the main door. These two bedrooms are five meters apart and separated by the sala. Mary Ann occupied one of the bedrooms downstairs, while her two younger sisters occupied the other one. Nobody occupied the bedroom upstairs, but when her cousin Edlin was with them, she stayed there. Mary Ann's parents and siblings slept in the sala.

While living with her father, the latter beat up Mary Ann with fist blows in the abdomen and ears because he did not approve of young men visiting her. She cried whenever he beat her up and her mother also cried and just kept quiet. On June 12, 1997, her father got mad at her for being their *barangay's* Reyna Elena with

Lloyd Talabac as consort.

On June 13, 1997, Mary Ann was home with her parents and siblings. That night, she went to bed at about 8:00 p.m. in her room. Her mother and father were still awake watching television in the sala, but her siblings were already asleep. The light in her bedroom and in the living room were on. She slept on a wooden bed, about one meter wide and six feet long, wearing garterized shorts and a sleeveless blouse. At about midnight, she tried to turn to her left, but could not do so. She woke up and saw the accused tying her right hand to the bedpost using her bra which he removed from her body, with the left strap still on her shoulder. She did not notice him remove her bra as there were many insects in her room and she thought it was just an insect biting her. Having come to her senses, she managed to say only "Tay". The accused immediately stuffed her mouth with an unused panty which he got from the table beside her bed before she could even ask why he was doing that to her, then covered her mouth with his right hand. She also noticed that the accused had tied her right leg to the bedpost. With the room well lit, Mary Ann saw her father perspiring. He was wearing only his brief. Mary Ann tried to scratch him with her left hand and was able to touch the mole on his nose. He covered her eyes with a pillow, then put out the lights. Mary Ann struggled to raise her left leg, but the accused, using his left hand, delivered two fist blows on her left thigh near the vagina and told her not to move, otherwise he would kill her. He also hit her in the abdomen. It was painful, so she just kept still. With his left hand, the accused removed Mary Ann's shorts and panty from her left leg and left them on her right knee. He let his penis out of his brief through an opening on the leg of the brief and inserted it into her vagina. Mary Ann tried to resist it by moving her thighs, but to no avail as the accused used his knee to pin down her left leg. After a long time of trying to penetrate her, the accused succeeded in doing so. It was painful for her; she bled and cried on her first sexual congress. It was pleasurable for him; he ejaculated. After the accused grew tired, he removed his penis from her vagina.^[2] He warned her not to tell her mother or friends about the incident and told her that she was already impure and dirty and not fit to live with them. Mary Ann's bra was torn and her blanket was stained with blood.

Mary Ann thought of telling her mother about her agonizing experience, but the accused was still home, so she told her only the following day when the accused had left. Her mother at first cried when she learned about it, then went inside her room, and after some time, came out smiling. So Mary Ann just washed the bloodied blanket and threw away her torn bra because her mother would not believe her story. In July, her cousin, Edlin Taonera, started to live with them. After testing the waters and finding out that Edlin could be trusted, Mary Ann told her in August that her father sexually abused her and that her mother refused to believe her. Fed up with her father's beatings, she also confided these to Edlin. She also told her younger sister about her harrowing tale, but the latter advised her to keep it to herself, otherwise their father would beat her up again.

After Mary Ann's father raped her on June 13, 1997, he molested her again three times in her room between 9:00 to 10:00 in the evening. One of those instances was on July 18, 1997, Mary Ann's birthday. He hurt her, touched the different parts of her body like her thigh, private part and breast, and told her not to leave the house. She kicked him and hit his hand, but he strangled her whenever she defended herself. When she washed herself in the evening, he peeped at her. Even prior to June 13, 1997, the accused, on several occasions, removed Mary Ann's

clothes, leaving only her panty and bra on. He measured parts of her body, including her breasts and vagina, while she was undressed. Mary Ann did not like this and fought against him. She reported to her mother the perversion of her father, and her mother confronted him about it. The accused neither confirmed nor denied the acts Mary Ann complained of. She even left their home twice when she was still in elementary because of her father's perversion.

On August 25, 1997, Mary Ann ran away from home and sought the help of her best friend, Aileen Agan. She stayed in the house of the latter's first cousin in Mandurriao, Iloilo City for a few days and from there, she transferred to the house of Aileen's sister, Lucy Gonzales, in San Nicolas, Oton, Iloilo City.^[3] She stayed at the latter's house for about three weeks, after which Agan told Mary Ann that she wanted her (Mary Ann) to go home because she did not find sufficient reason for her to be away from home. Mary Ann cried. Aileen called her best friend, SPO2 Enteng Silla, and told him that Mary Ann's father beat her up. Silla informed them that his maltreatment was a ground for a complaint against him. But SPO2 Silla suspected that there was some other reason why she would not go home. It was then that she confessed that her father raped her. The next day, Agan and Silla brought her to a doctor in Fort San Pedro for examination and the findings showed that she was no longer a virgin. Aside from Silla, Mary Ann also reported her tragic story to the barangay captain of Oton and to policeman Orpin at the police station in September 1997.

Thereafter, upon the suggestion of Silla, Mary Ann lived at the Department of Social Welfare and Development (DSWD) because her father was looking for her. She filed a complaint for rape against him. While she felt pity for her father who could be sent to jail if found guilty, she also felt her father had to pay for ravaging her. Her traumatic experience made her hate men, lose trust in everybody around her, including her parents, classmates, roommates, and even herself, and lose interest in her studies because she felt she did not have anybody to offer her studies to as her mother did not believe her. She also felt abandoned and that nobody cared for her. She could not sleep well since that fateful night of June 13, 1997 and felt ashamed.^[4]

Lucy Gonzales took the witness stand. She is a resident of San Nicolas, Oton, Iloilo. On August 29, 1997, Gonzales was home. That evening, her sister Aileen Agan and her friend Mary Ann Rodriguez, her cousin Mamerto Camboso and his wife Suzette arrived in her house at around 9:00 p.m. Aileen told her that Mary Ann had a problem. She ran away from home because according to her, her father made an attempt upon her honor. The group then left, leaving Mary Ann behind to live with Gonzales. Mary Ann revealed to her that her father peeped at her, sometimes got her underwear and smelled it, and made passes at her. Gonzales called her lawyer, Atty. Francisco Guiritan, and told him about Mary Ann's situation. Guiritan advised her to go to the police and have the police enter in the blotter Mary Ann's story and to indicate therein that the child sought shelter in her (Gonzales') house to avoid being accused of kidnapping Mary Ann. Lucy heeded Guiritan's advice, went to the police station and looked for policeman Vicente Silla. The latter, however, was not on duty at that time. Later that afternoon, she contacted Silla, and asked him to come over to her house. Silla and policeman Orpin came and Silla talked to Mary Ann. She cried. Later, Silla and another policeman accompanied Mary Ann and Gonzales to the house of Cris Montano of the Commission on Human Rights (CHR). As Montano was not home, Silla told Gonzales to go home and that he would take

care of entering Mary Ann's complaint in the police blotter.

On September 1, 1997, Silla arrived in Gonzales' house. He told her to go to the house of barangay captain Nelson Londres. When they arrived there, Cris Montano, Orpin and Londres were present. Montano asked Mary Ann what her problem was and Mary Ann cried and told him that her father made attempts upon her honor. Montano told her to undergo medical examination. Mary Ann cried hard upon hearing this and hugged Gonzales and told her that if she would be examined, it would be discovered that her father had his way with her. Mary Ann then revealed to Montano that her father raped her on June 13, 1997 and attempted to rape her again on July 18, 1997.

The next day, Montano, Silla, Gonzales and Mary Ann went to the DSWD in Oton, Iloilo. Gonzales told Joy Tañada of the DSWD what transpired on that fateful night of June 13, 1997. The group, now joined by Tañada, proceeded to the CHR. Mary Ann narrated to the investigating officer that her father raped her on June 13, 1997 and attempted to rape her again on July 18, 1997. She also narrated her father's beatings and peeping and smelling of her underwear. Forthwith, Montano prepared a document regarding the medical examination on Mary Ann. The group headed to the DSWD office and inquired whether a medico-legal officer was available. They were referred to Camp Delgado. At the camp, a medical examination was conducted upon Mary Ann. Thereafter, they went to the Women's Desk at the police station and Mary Ann again narrated to policewoman Edith Montero the rape incident on June 13, 1997 and the attempt to rape her again on July 18, 1997.^[5]

Nina Joy Tañada, Municipal Social Worker and Development Officer of the DSWD of Oton, Iloilo took the witness stand. On September 1, 1997, Tañada met Mary Ann Rodriguez for the first time as the latter was referred to her office by police officer Vicente Silla. Mary Ann told her that her father sexually abused her on June 13, 1997. She cried and was depressed. Afterwards, she, along with Cris Montano and Silla, brought Mary Ann to the CHR where she gave her statement to Atty. Villarete. In the afternoon of that day, the group brought her to Camp Delgado where Dr. Owen Lebaquin conducted a medical examination on Mary Ann and issued a medical certificate. The group then went back to the CHR where the certificate was attached to Mary Ann's statement. The next day, they went to the Women's Desk and reported to SPO4 Erna Foerster the June 13, 1997 rape incident and the latter recorded it in the police blotter. On September 4, 1997, Tañada turned Mary Ann over to the DSWD Regional Office and she was sheltered at the Lingap Center.^[6]

Dr. Owen Lebaquin testified that in September 1997, he was assigned as regional medico-legal officer in Iloilo City. He examined Mary Ann Rodriguez on September 1, 1997 and found deep healed lacerations of the hymen at 3 and 9 o'clock positions. The lacerations could be more than one month old. The lacerations could have been caused by the insertion of a hard, blunt object. In the course of the examination, Mary Ann told him that her father raped her on June 13, 1997.^[7]

Irene Fe Rodriguez, wife of the accused, testified for the defense. She denied talking to Mary Ann, her eldest child, about the alleged rape incident of June 13, 1997. That night, Irene was home watching television. She was with her husband and all her children and nieces who were staying in their house for the night. At about 11:00 p.m., she went to bed in the sala with her husband and two sons. Mary

Ann slept in her room upstairs along with her sister Monyeen and cousins Julie Ann Balcuba and Margie Torreflores. Another daughter, PJ Rodriguez, and Edlin Taonera slept in the other room upstairs. There were two bedrooms downstairs which nobody occupied. These rooms were just about an arm's length away from the sala. Irene woke up at about 3:00 the next morning.

On August 25, 1997, Mary Ann refused to go to school because she had her monthly period. But her sister, PJ, told their father that Mary Ann did not want to attend school because her name was posted at the school guard house. Irene went to Mary Ann's school to find out why her name was posted, and learned that it was because Mary Ann did not have a report card as she had not been going to school. She talked to Mary Ann's class adviser and found out that since school started, Mary Ann had attended school for only a week. When Irene got home, she scolded Mary Ann because the latter had been getting her allowance and leaving for school everyday, but had not been attending her classes. Her father warned her to take her studies seriously as they had to go through the trouble of asking a certain Atty. Tungala to make a Certificate of Good Manners and Right Conduct for Mary Ann to be admitted back to school after failing her first year in high school. Mary Ann did not take his warnings to heart and left home. Two days after she left, Irene started looking for her. She and her husband contacted all their relatives but did not find her. At the end of August, Irene and the accused were summoned to the Molo police station regarding the whereabouts of Mary Ann. It was then that they learned that Mary Ann had been there to report that her father raped her. The couple was then referred to another police station where a policewoman asked Irene whether Mary Ann told her that her father raped her, and Irene replied in the negative. She was then told that Mary Ann was in the custody of the DSWD. She contacted Joy Tañada of the DSWD, but she was told that Mary Ann had been referred to the main office of the DSWD in the city. When she went there, she was not allowed to talk to Mary Ann as she had been raped by her father. She was taken aback and confronted her husband about it. The accused denied the accusation. Irene admitted that her husband beat up Mary Ann for being a wayward. Mary Ann had the habit of leaving the house without asking permission from her parents.

When the accused learned of the rape charge against him, he did not get mad as he knew he did not do anything wrong. He continued to go to work as chief security guard of Tinsay Security Agency until he was arrested. With his arrest, the Rodriguez family suffered financial problems and was forced to leave the house they rented and lived with their neighbor.^[8]

PJ Rodriguez, Mary Ann's fifteen year-old sister, took the witness stand. In June 1997, she lived with her father, mother, and siblings in their house in Barangay Salvacion, Habog-Habog, Molo, Iloilo City. Their house consists of two stories, with two bedrooms on the first floor. On June 13, 1997, she went to bed at about 11:30 p.m. and occupied a room in the first floor with her cousins, Edwin and Edlin Taonera who lived with them from around March to August 1997. PJ's parents and siblings slept in the sala. Nobody occupied the other room where their clothes and other things were kept. Upstairs, there was one bedroom occupied by Mary Ann and her other sister, Monyeen, and their cousins Julie Ann Balcuba and Margie Toreflores. The latter two lived with them from June 12, 1997 to July 18, 1997.

PJ testified that Mary Ann never confided to her that their father raped her on June 13, 1997. On July 18, 1997, Mary Ann's birthday, Mary Ann again slept in her