

## EN BANC

[ G.R. No. 135027, July 03, 2002 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ARTEMIO SORIANO, ACCUSED-APPELLANT.**

### DECISION

#### **PER CURIAM:**

This case is here for automatic review of the decision of the Regional Trial Court, Branch 67, Bauang, La Union,<sup>[1]</sup> finding accused-appellant Artemio Soriano, alias "Iniong", guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of death and to indemnify the offended party, May Ann N. Fontillas, in the amount of P100,000.00 without subsidiary imprisonment in case of insolvency.

The information against accused-appellant Artemio Soriano alleged —

"That on or about and sometime in the month of May, 1995, in the Municipality of Bauang, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully, and feloniously ha[d] sexual intercourse with one MAY ANN FONTILLAS, 6 years old, daughter of Mr. and Mrs. Antonio Fontillas, against her will and consent, to the damage and prejudice of the offended party.

"CONTRARY TO LAW."<sup>[2]</sup>

Upon being arraigned, accused-appellant pleaded not guilty, whereupon he was tried.

Four (4) witnesses were presented by the prosecution against him, namely, Antonio and Mirasol Nadua Fontillas, parents of May Ann; Dr. Marida Poligrates, the physician who examined May Ann; and May Ann herself.

Complainant May Ann Fontillas is the daughter of spouses Antonio and Mirasol Fontillas. She was six (6) years old and in Grade 1 at the time of the incident. At the time she took the witness stand, she was seven (7) years old. She testified that she was a resident of Barangay Buy-otan in Bauang, La Union. Sometime in May 1995, after watching television with her brothers Mark and Marvin in the house of their grandfather Ileodoro Nadua, she went home, but her brothers stayed behind. The house of her grandfather was about 300 meters away from theirs. On her way home, May Ann met accused-appellant Artemio Soriano, whom she called "Manong Iniong." But instead of accompanying her home, accused-appellant took her to a dry creek, made her lie down, and then removed her shorts and underwear. He then

applied saliva on May Ann's private parts and had sexual intercourse with her. May Ann said she felt pain as accused-appellant forced himself upon her. Afterwards, he took her home.

May Ann claimed that accused-appellant raped her several times more in his house, enticing her to go there by giving her candies and lollipops. She said that accused-appellant had warned her not to tell her mother or she would be harmed. May Ann said she had difficulty urinating as a result of her sexual molestation. She said she was afraid to report these incidents to her mother because she might whip her. Nonetheless, May Ann said, her mother came to know about her misfortune because on one occasion she (May Ann) had a quarrel with Baby Cake, accused-appellant's five-year old sister. Her mother overheard Baby Cake say to May Ann, "*Sika ngay iniyot na ka ni Manong ko.*" ("How about you? My brother had sexual intercourse with you.") When confronted by her mother, May Ann said she confirmed what Baby Cake had said.<sup>[3]</sup>

May Ann's parents, Antonio and Mirasol, both knew accused-appellant, who was called "Iniong" in their barangay, having been their neighbor for 10 years, whose house was only 20 meters from their house. Mirasol testified that May Ann is her daughter and that she was turning seven years old at the time Mirasol testified on July 9, 1996. Mirasol said that on August 23, 1995, while she was doing some household work, she overheard Baby Cake tell May Ann "*Sika ngay iniyot na ka ni Manong ko.*" ("How about you? My brother had sexual intercourse with you.") Upon hearing this, Mirasol said, she talked with May Ann and the latter admitted that she had indeed been raped by accused-appellant. According to Mirasol, she asked Baby Cake what had happened and the latter told her that she saw accused-appellant and May Ann having sexual intercourse in accused-appellant's house. May Ann told her mother that she had been raped by accused-appellant near the creek and many times in his house.<sup>[4]</sup>

Testifying in his turn, Antonio said that when he arrived home from work at about 5 o'clock in the afternoon, his wife Mirasol told him what had happened to May Ann. May Ann herself told him that accused-appellant had molested her, the first time near the creek and the second time in accused-appellant's house. Antonio therefore set out to look for accused-appellant, but he failed to locate him. Accused-appellant's parents expressed surprise when told about the rapes committed by their son and said that the latter could not do such a thing. Antonio said that he and his wife Mirasol have five children: Mark Anthony, Marvin, May Ann, Madel and Daniel. May Ann was six years old. From May to August of 1995, Antonio said he noticed that May Ann was having vaginal pains and difficulty sleeping. But, he said, he did not ask May Ann as he thought that she was merely having some urinary problems.<sup>[5]</sup>

The following day, August 24, 1995, Antonio narrated the matter to Richard Mitre, a barangay kagawad, whereupon Mitre accompanied May Ann and Antonio to the Bauang Police Station where they gave their sworn statements.<sup>[6]</sup> Later, they proceeded to the Naguilian District Hospital in Naguilian, La Union where May Ann was examined. On August 25, 1995, Antonio C. Fontillas filed, in behalf of his daughter, a complaint<sup>[7]</sup> for rape against accused-appellant before the Regional Trial Court of Bauang, La Union.

On the other hand, Mirasol said that she was disturbed by what had happened to her daughter, who could hardly sleep at night and had difficulty urinating. According to Mirasol, the rape incident caused her family untold misery as they had become the talk of the town. Mirasol also said that from February to May of 1995, accused-appellant would usually fetch her daughter. She said that she could not believe that accused-appellant could commit such dastardly acts because her family considered him a relative. From April to May, Mirasol said she noticed that May Ann had vaginal pains and difficulty urinating. She did not ask May Ann about it, thinking that it was just a natural experience for children.<sup>[8]</sup>

Dr. Marida R. Poligrates of the Naguilian District Hospital in Naguilian, La Union examined May Ann on August 24, 1995. She found healed lacerations on May Ann's vagina. She issued a medical certificate (Exh. "A")<sup>[9]</sup> which states that the victim had a "vaginal tear, healed, 3, 6, 9 o'clock positions, [and that the] introitus admits [the] 5<sup>th</sup> finger with ease." In addition, she made an illustration (Exh. "C")<sup>[10]</sup> of May Ann's vaginal lacerations at the 3, 6, and 9 o'clock positions (Exhs. "C-1", "C-2", "C-3", respectively). According to her, she submitted semen sample for analysis, but the hospital had no facilities for examining it. She said that the healed lacerations could have been caused by the insertion of a blunt instrument or an erect penis about two weeks before the examination. She explained that the vagina of a child is normally firm but there would be lacerations and bleeding the moment any insertion with force was applied to it. The usual healing period for vaginal lacerations is from two to three days and complete healing occurs in ten days. May Ann's vaginal lacerations had completely healed as there was no more inflammation and the color had become pinkish at the time of the examination.<sup>[11]</sup>

Accused-appellant Artemio Soriano, 26 years old, single, and a resident of Buy-otan in Bauang, La Union, anchored his defense on denial and alibi. According to him, he was a stay-in househelp of Clarita Tejano from January 1993 up to August 1995. In addition to household work, he said he planted tobacco as Tejano was engaged in buying and selling of tobacco. He admitted he has a sister, then aged 5, named Baby Cake, but he denied having raped May Ann. He also denied he was close to her or that he gave her candies and guavas. He denied having seen May Ann go to his house and play with his younger sister Baby Cake, claiming he was then in the house of Clarita Tejano. He denied further that he had been investigated by the barangay chief and tanods in the house of Ileodoro Nadua or that he had been confronted by the Fontillas about the rape of their daughter May Ann. He claimed that it was only in 1992 that he watched television in the house of Ileodoro Nadua. He also admitted that there was a creek between the house of Ileodoro Nadua and the Fontillas.

Three other witnesses testified for the defense, namely, Arcadio Marzo, chief barangay tanod of Barangay Buy-otan in Bauang, La Union; Pio Ramos, President of SUNA Zone 4 and a barangay tanod in said barangay; and Clarita Tejano, accused-appellant's employer.

Arcadio Marzo, 57 years old, a resident of Buy-otan and the chief barangay tanod since 1991, testified that Antonio Fontillas and Ileodoro Nadua (Antonio's father-in-law who was also a barangay tanod) invited him to Nadua's house where he was informed that May Ann had been raped by accused-appellant. When May Ann and her mother arrived in the house, he asked May Ann what had happened to her, but

she kept quiet. Only her mother answered his questions. Marzo said he stayed for an hour in Nadua's house, during which he and Pio Ramos repeatedly asked May Ann what had happened to her but she just remained silent.<sup>[12]</sup>

Pio Ramos, 45 years old, a resident of Buy-otan and a barangay tanod, testified that on August 24, 1995, tanod chief Arcadio Marzo, Antonio Fontillas, barangay kagawad Richard Metri, and Ileodoro Nadua went to see him in his house and asked him to join them in Nadua's house. There, he learned of what had happened to May Ann through her mother Mirasol. May Ann was asked thrice by Arcadio Marzo, "My child, why, did Iniong [do] anything to you?" But May Ann allegedly did not say anything.<sup>[13]</sup>

Clarita Tezano, 52 years old, married, and a resident of Buy-otan, testified that she knew accused-appellant because he was her neighbor. She was engaged in the business of buying and selling tobacco. Accused-appellant was employed by her family as a househelp from January 1993 to August 18, 1995. She said that, during the period of two years that he was with her family, accused-appellant did not go home to his house. She said accused-appellant was a good man and that he had done nothing wrong against her family or anyone in the barangay.<sup>[14]</sup>

Mirasol Fontillas was presented to rebut the testimony of accused-appellant.<sup>[15]</sup>

On July 23, 1998, the trial court rendered a decision finding accused-appellant guilty of the crime of statutory rape as follows:

"WHEREFORE, judgment is hereby rendered finding the accused ARTEMIO SORIANO guilty of the crime of rape under Art. 335, par. 3 of the Revised Penal Code, as amended, in conjunction with sub-par. 4 thereto, and consequently sentencing him the penalty of DEATH by lethal injection and [to] indemnify the private complainant the sum of P100,000.00 without subsidiary imprisonment in case of insolvency.

"SO ORDERED."<sup>[16]</sup>

Hence, this appeal.

**First.** Findings of facts of the trial courts carry great weight and will not be disturbed on appeal unless shown to be contrary to facts or circumstances of weight and substance in the record. For, generally, the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by trial courts, because of their unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination.<sup>[17]</sup> In this case, we find no reason to depart from this settled rule. The evidence fully sustains the trial court's findings and its conclusions.

May Ann was six years old at the time she was raped. At such a tender age, she could not have concocted or invented a tale of sexual assault perpetrated by accused-appellant if this was not true.<sup>[18]</sup> She positively identified accused-appellant as the person who had sexually molested her. To appreciate her testimony, it is helpful to quote from her testimony below:

“Q Do you know the accused Artemio Soriano?

A Yes, sir.

Q Now, do you know how is he called or his nickname?

A Iniong, sir.

Q Now, how long have you known Artemio Soriano or Iniong?

A Long time, sir.

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Q How do you call him?

A I call him Manong Iniong, sir.

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Q By the way, if that Artemio Soriano is in the courtroom could you point to him?

A Yes, sir.

Q Where is he?

A (Witness pointing to a man in blue and yellow T-shirt who answered by the name Artemio Soriano)

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Q Now, when you were watching TV, by the way, do you watch TV?

A Yes, sir.

Q Where do you watch TV?

A In the house of Lolo Ileodoro, sir.

Q Where is the house of your Tatang Ileodoro?

A Near our house, sir.

Q Do you often watch TV in the house of your Tatang or Lolo Ileodoro?

A Yes, sir.

Q Now, last year, do you remember having watched TV together with your brothers and sisters? In the house of Lolo Ileodoro?