

EN BANC

[G.R. Nos. 138146-91, February 28, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SANDY HINTO Y BUENO, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

These cases are here on appeal from the decision^[1] rendered on April 12, 1999 by the Regional Trial Court of Malabon, Branch 170, finding accused-appellant guilty of one count of rape and 45 counts of acts of lasciviousness and sentencing him accordingly.

In Criminal Case No. 17424-MN, the information alleged:

"That on or about the 27th day of November, 1996 in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the common-law spouse of Liza Hinto's mother, with lewd design by means of force, violence and intimidation, and or threat willfully, unlawfully and feloniously, did, then and there have sexual intercourse with the said LIZA HINTO Y FERNANDEZ who is under 18 years of age against her will and without her consent.

"CONTRARY TO LAW."

In Criminal Case Nos. 17570-MN-17583-MN, the information alleged:

"That on or about the 7th day of September 1996,^[2] in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design by means of force, violence and intimidation did, then and there willfully, unlawfully and feloniously mash and touch the private parts of LIZA HINTO Y FERNANDEZ who is under 12 years of age against her will and without her consent.

"CONTRARY TO LAW."

In Criminal Case Nos. 17584-MN-17614-MN, the information alleged:

That on or about the 1st day of October 1996,^[3] in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this honorable Court, the above-named accused with lewd design by means of force, violence and intimidation and/or threat did, then and there willfully, unlawfully and feloniously mash the breast of and insert his

finger into the vagina (fininger) of one LIZA HINTO Y FERNANDEZ, who was then under 12 years of age against her will and without her consent.

Liza Hinto was born on October 30, 1984.^[4] At the time of the incidents in question, Liza was twelve years and one month old. She had been living with accused-appellant since she was two years old, after her mother, Elsa Fernandez-Hinto, separated from her father and started living with accused-appellant.^[5] Accused-appellant had five children with Elsa.^[6] Liza used to sleep beside her stepbrothers and stepsisters and accused-appellant^[7] on the floor in their house at Reparo St., Malabon, Metro Manila.^[8]

On the evening of September 5, 1996, Liza slept with a stepbrother to her left and accused-appellant slept to her right with a pillow placed between them.^[9] In the middle of the night, Liza was awakened by the touch of her Papa, as she fondly called accused-appellant, who fondled her breasts and sexual organ.^[10] Liza resisted accused-appellant and moved her body away from him,^[11] but accused-appellant persisted in touching her. Since that night, accused-appellant made it a habit to touch Liza's breasts and sexual organ, doing so every other night throughout the months of September and October 1996.^[12] Liza resisted accused-appellant's advances each time,^[13] but she was threatened if she told anyone what accused-appellant had been doing to her.^[14] The incidents took place while Liza's stepbrothers and stepsisters were asleep and her mother was in Monumento selling fruits.^[15]

Events took a more dastardly turn on the night of November 27, 1996. On that night, as Liza was sleeping, she felt accused-appellant undressing her. He removed her shorts and panty.^[16] Then accused-appellant himself undressed and went on top of Liza and started inserting his penis into her vagina.^[17] Once he had inserted his penis, accused-appellant performed the sexual act.^[18] She resisted but accused-appellant held down her hands and threatened to beat her up if she did not give in to his demand.^[19] Liza said she felt accused-appellant reach climax inside her, after which he wiped something below her organ.^[20]

The next day, Liza told her mother that her stepfather had raped her. Her mother made her sleep with her aunt^[21] and filed a complaint at the police station against accused-appellant. The principal of Morning Breeze Elementary School, where Liza went to school, also reported the matter to the police. SPO1 Leonardo M. Balinag went with the complaining party to the 7-11 Store at the corner of EDSA and Morning Breeze, where accused-appellant sold fruits.^[22] They brought accused-appellant to the Criminal Investigation Division of the Northern Police District Office for investigation.^[23]

On December 18, 1996, Liza was taken to the medico-legal division of the National Bureau of Investigation where she was examined by Dr. Ida P. Daniel. Dr. Daniel's findings are contained in the medico-legal report (Exh. G) she issued, which report states in part:

"GENITAL EXAMINATION

"Pubic hair, no growth. Labia majora and minora, coaptated. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, tall, thick, with healing, superficial laceration 9 o' clock position, edges congested and edematous. Hymenal orifice, admits a tube 2.5 cms., in diameter. Vaginal walls, tight. Rugosities, prominent.

"CONCLUSIONS:

"1. No evident sign of extragenital physical injury noted on the body of subject at the time of examination.

"2. Healing hymenal laceration, present."

Dr. Daniel testified in court that the hymenal laceration was caused by the penetration of a hard blunt object with an average diameter of 2.5 cms. He said that the hard blunt object could be an erect penis and that penetration could have occurred during sexual intercourse.^[24]

On December 18, 1996, a complaint for rape was filed against accused-appellant. Subsequently, on January 30, 1996, 45 separate complaints for acts of lasciviousness were filed against accused- appellant.

Accused-appellant denied the rape charge against him. He claimed that on the morning of November 27, 1996, he was in Balintawak buying fruits.^[25] According to him, he had been going to Balintawak every day to buy fruits, even before Liza's mother started living with him.^[26] On the date in question, he was at Balintawak at 10:00 p.m. and went home between 4:00-5:00 a.m. of the next day.^[27] When he got home, two neighbors, Jobo and Iday Catcat, helped him bring down the fruits he had bought. Accused-appellant claimed that Liza trumped up the rape charge against him to help her mother separate from him and return with her real husband, Liza's father.^[28]

The trial court found the prosecution evidence more credible and convicted accused-appellant of rape and acts of lasciviousness. The dispositive portion of its decision states:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

"1. In Criminal Case No. 17424-MN, the Court finds the accused Sandy Hinto y Bueno, guilty beyond reasonable doubt of the crime of RAPE and hereby imposes upon him to suffer the penalty of DEATH. Likewise, the accused is hereby ordered to pay Liza Hinto y Fernandez also known as Elisa F. Adea the amount of P50,000.00 by way of civil indemnity and the cost of the suit;

"2. In Criminal Case Nos. 17570-MN to 17614-MN, the Court finds accused Sandy Hinto y Bueno guilty beyond reasonable doubt of the crime of ACTS OF LASCIVIOUSNESS (Article 336 of Revised Penal Code in

relation to R.A. 7610), there being the presence of the aggravating circumstance of relationship, hereby sentences him to an indeterminate penalty of twelve (12) years, as minimum, to fifteen (15) years, both of reclusion temporal, as maximum, in each of the forty-five (45) cases and to pay the costs of the suit.

"Let the accused be credited for whatever preventive imprisonment he has undergone in connection with the forty-five (45) cases of Acts of Lasciviousness.

"SO ORDERED."

Hence, this appeal.

In his lone assignment of error, accused-appellant contends that "the court a quo gravely erred in finding herein accused-appellant guilty of the crimes charged beyond reasonable doubt despite the incredible and fabricated testimony of private complainant Liza Hinto."^[29]

First. Accused-appellant contends that it was impossible for him to have committed the crimes charged inside their home because they lived in a small house in a squatter's area. Liza slept beside her five siblings with the lights on. He would have easily been found out by his own children if he tried touching or raping Liza. These conditions, accused-appellant claims, made it impossible for him to commit any of the acts imputed to him.^[30]

Accused-appellant's contention has no merit. Neither the crampedness of the room, nor the presence of other people inside it, nor the high risk of being found out has been held sufficient and effective obstacles to deter the commission of rape. As this Court observed in *People vs. Umali*:^[31]

"[I]t has become a matter of judicial notice that rape can be committed in many different kinds of places which many would consider as unlikely or inappropriate and that the scene of the rape is not always or necessarily isolated or secluded for lust is no respecter of time or place. Thus, the crime can, and has been, committed in places where people congregate, e.g., inside a place where there are occupants, a five-meter room with five people inside, and even the same room which the victim was sharing with the accused's sisters. Therefore, we find it not so incredible that accused somehow had the temerity to sexually assault private complainant even with his wife and two small children just nearby. To repeat what has been said before, animal lust is an aberration which this Court will not explain for the benefit of the accused."^[32]

Second. Accused-appellant claimed that he had punished Liza in the past, and she resented this, and it was to avenge her maltreatment by him, that she falsely accused him. Accused-appellant contends that the fact that she never screamed for help when she was allegedly molested, coupled with the delay in reporting the incident at once to her mother, put in doubt the charges against him.

Accused-appellant's contention has no merit. Settled is the rule that the trial court's evaluation of the credibility of the testimony of witnesses is entitled to great