

EN BANC

[G.R. No. 135234-38, March 08, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEJANDRO GUNTANG Y GAPOS, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

Alejandro Guntang was found guilty by the Regional Trial Court (Branch 46)^[1] of Urdaneta, Pangasinan, of raping his 15-year-old daughter Lizabeth Guntang on five occasions. He was sentenced by the trial court to suffer the death penalty for each count.^[2]

The five informations filed against the accused by Assistant Provincial Prosecutor Marcelo C. Espinosa read:

"CRIM. CASE NO. U-9560

"That on or about 11:00 o'clock in the morning of November 24, 1997 at Brgy. Casantaan, Urdaneta, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed weapon by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with LIZABETH GUNTANG y Domingo, a minor 15 years of age and accused' legitimate daughter against the latter's will and without her consent, to her damage and prejudice.

'CONTRARY to Article 335 of the Revised Penal Code, as amended by R.A. 7659 and R.A. 8353.'

"CRIM. CASE NO. U-9561

"That on or about 11:00 o'clock in the evening of November 24, 1997 at Brgy. Casantaan, Urdaneta, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed weapon by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with LIZABETH GUNTANG y Domingo, a minor 15 years of age and accused' legitimate daughter against the latter's will and without her consent, to her damage and prejudice.

'CONTRARY to Article 335 of the Revised Penal Code, as amended by R.A. 7659 AND R.A. 8353.'

"CRIM. CASE NO. U-9562

"That sometime on the month of December, 1997, at Brgy. Casantaan, Urdaneta, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed weapon by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with LIZABETH GUNTANG y Domingo, a minor 15 years of age and accused' legitimate daughter against the latter's will and without her consent, to her damage and prejudice.

'CONTRARY to Article 335 of the Revised Penal Code, as amended by R.A. 7659 AND R.A. 8353.'

"CRIM. CASE NO. U-9563

"That sometime on the month of January, 1998 at Brgy. Casantaan, Urdaneta, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed weapon by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with LIZABETH GUNTANG y Domingo, a minor 15 years of age and accused' legitimate daughter against the latter's will and without her consent, to her damage and prejudice.

'CONTRARY to Article 335 of the Revised Penal Code, as amended by R.A. 7659 AND R.A. 8353.'

"CRIM. CASE NO. U-9564

"That sometime on the month of February 14, 1998, at Brgy. Casantaan, Urdaneta, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed weapon by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with LIZABETH GUNTANG y Domingo, a minor 15 years of age and accused' legitimate daughter against the latter's will and without her consent, to her damage and prejudice.

'CONTRARY to Article 335 of the Revised Penal Code, as amended by R.A. 7659 AND R.A. 8353.'"^[3]

The Solicitor-General narrates in the People's brief the factual circumstances that led to conviction of Guntang by the trial court.

"I. CRIM. CASE NO. U-9560

"Lizabeth Guntang is a fifteen year old girl who lived with her siblings and their parents, Alejandro and Rosita Guntang at Casantaan, Urdaneta, Pangasinan (TSN, June 10, 1998, pp. 2, 4-5). On November 24, 1997 at about 11:00 o'clock in the morning, Lizabeth was inside the room of their nipa hut taking care of her brother Adriano when she was called by her father, Alejandro (Ibid., 7-8). She left her brother on the hammock inside the bedroom and descended the two steps to where her father was (Ibid., 8-9).

"Upon reaching her father, she was ordered to lie on the 'papag' which he used as a bed. When Lizabeth asked why she was being ordered to lie down, Alejandro merely reiterated his order. Lizabeth obeyed and laid down on the 'papag' (Ibid., p. 10). With a bolo in hand, Alejandro laid beside Lizabeth and forcibly removed her blouse. Lizabeth objected but Alejandro persisted. He removed her bra and held her breast and nipple (Ibid., pp. 10-11). Alejandro then removed Lizabeth's shorts and panty. Again, Lizabeth voiced her objections to no avail. Thereafter, Alejandro positioned himself on top of Lizabeth, held her two hands and forced his penis inside her vagina. This caused Lizabeth pain. Without taking heed of his daughter's pain, Alejandro began a push and pull movement. After some time, Lizabeth's brother began to cry. Lizabeth pushed at her father pleading with him to stop but he refused. Alejandro only stopped when he had satisfied his lust (Ibid., pp. 12-17). After the deed was done, Alejandro warned Lizabeth not to tell anybody what happened between them (Ibid., p. 17).

"II. CRIM. CASE NO. U-9561

"At around 11:00 o'clock that evening (November 24, 1997), Lizabeth was already sleeping in their room with her mother and brothers and sisters when she was awakened by the call of her father (TSN, June 15, 1998, p. 3). She stood up and went down to her father. She found him drinking liquor, which he offered to her. She refused but was, nevertheless, forced to drink. She was then ordered to go to his bed. She complied because she was frightened when she saw her father holding a bolo. She sat down on the 'papag' which was being used by her father as his bed (Ibid., p. 4-5). Alejandro drank his liquor and then approached Lizabeth. After being forced to lie down on the bed. Alejandro began to touch her face and breast (Ibid., p. 5; June 16, 1998, p. 3). Lizabeth protested and told Alejandro that she did not like what he was doing. In turn, Alejandro threatened to punch her with his fist. He undressed her, touched her body and sucked her breast (June 16, 1998, pp. 3-4). Thereafter, he removed his shorts and brief, held her two hands, positioned himself on top of Lizabeth and forced his penis into her vagina. When Alejandro ejaculated he got off Lizabeth (Ibid., pp. 5-6). She then put on her clothes (Ibid., p. 7). Alejandro did the same and threatened to kill Lizabeth, her mother and her siblings if she told anyone of what transpired between them (Ibid., pp. 7-8). Lizabeth then went back to lie to the room to lie down. She was, however, not able to go back to sleep (Ibid., pp. 8-9).

"III. CRIM. CASE NO. U-9562

"On December 24, 1997 at about 12:00 o'clock midnight, Alejandro laid down beside Lizabeth who was sleeping with her brothers and sisters. While holding a bolo, he woke her up and warned her not to shout. Knowing what was about to happen, Lizabeth protested (TSN, June 23, 1998, p. 4-5). Alejandro took no heed of the protest and undressed Lizabeth. He took hold of her hand and inserted his penis into her vagina (Ibid., p. 5). He began to make a push and pull movement. After a while

he stopped and got off Lizabeth only to get on top of her again and force himself on Lizabeth (Ibid., p. 6). Lizabeth felt her father discharge his semen. He then returned to his bed. Lizabeth changed her clothes and began to cry. Her father warned her to stop crying or else he would box her (Ibid., pp. 7-9). She eventually went to sleep (Ibid., p. 9).

"IV. CRIM. CASE NO. U-9563

"At about 11:00 o'clock in the evening sometime in the month of January 1998, Lizabeth was studying inside the room where she slept with her mother and brothers and sisters (TSN, July 2, 1998, p. 3). Alejandro called her to come down. When she obeyed, she was brought to her father's bed. She was pushed to lie down on the bed together with Alejandro. Alejandro removed her clothes and kissed and touched her body (Ibid., pp. 4-5). When Lizabeth pushed her father away, he boxed her. Alejandro then removed his clothes, went on top of Lizabeth and inserted his penis inside her vagina and had sexual intercourse with her. When he was done, Alejandro took hold of her dress and told her to stay. After dressing up, Lizabeth asked permission to go back to the room where she slept (Ibid., pp. 6-8).

"V. CRIM. CASE NO. U-9564

"On February 14, 1998, at about 11:00 o'clock in the evening, Lizabeth was sleeping in their room with her mother and brothers and sisters. She was awakened by the call of her father. When she answered, she was ordered to go down and give him a massage. Alejandro threatened to hurt her if she did not obey. Lizabeth went down and approached her father and saw a bolo beside him (TSN, July 6, 1998, pp. 3-5). When she asked why she was being called, Alejandro pulled her and made her lie down beside him. He told her not to make a sound and then undressed her. He kissed her body and placed himself on top of her (Ibid., pp. 5-7). Alejandro lowered his briefs up to his thighs then forced his penis inside her vagina. He again had sexual intercourse with her. When Alejandro had finished, Lizabeth dressed up and asked permission to urinate outside the hut (Ibid., pp. 8-9).

"When she got out, Lizabeth hid by the bamboo grove until she was sure that her father did not follow her. She then went to her grandmother, Felicitas Domingo, to whom she narrated what her father had done to her. (Ibid., pp. 9-10) The next morning, they sought the help of a Kagawad of the barangay who accompanied them to the police station where they reported the crime committed against Lizabeth (TSN, July 20, 1998, pp. 3-4).

"The medical examination conducted on Lizabeth by Dr. Noel Obedoza revealed a ruptured hymen with lacerations at 1, 5, 7 and 9 o'clock positions (TSN, May 21, 1998, pp. 2, 5)."^[4]

Alejandro Guntang reiterates before this Court his claim of innocence of the charges and his defense of *alibi*. His story -

"x x x (O)n November 24, 1997, the accused Alejandro Guntang left their house at 6:30 a.m. and went to the rice field (TSN, August 3, 1998, p. 3). He returned around 1:10 in the afternoon. He ate and rested for awhile, and then went back to the rice field. At around 5:30 in the afternoon, he returned home. On the other hand, the victim arrived home at 6:00 p.m. The accused asked why she arrived late and Lizabeth answered in a loud voice, which he resented and he whipped her (TSN, August 3, 1998, p. 6). They ate supper at around 7:30 p.m. after which they went to sleep. Nothing unusual happened that night.

"On December 24, 1997, the accused was at home from 7:00 o'clock in the morning to 12:00 o'clock noon (TSN, August 4, 1998, p. 8). At 1:00 o'clock in the afternoon he went to the ricefield and stayed there up to 4:30 in the afternoon, after which, he went home. At around 11:00 o'clock in the evening the entire family was already sleeping and nothing unusual happened that night (TSN, August 4, 1998, p. 3).

"During the month of January 1998, there was no untoward incident that happened and the relationship between the family members was cordial and peaceful (TSN, August 4, 1998, p. 4).

"In the morning of February 14, 1997, the accused was at home and in the afternoon he went to the ricefield to visit his plants and stayed there up to 5:30 in the afternoon.

"In the afternoon at around 6:00, he requested the victim to cook their food and she answered: 'I am not your servant why are you ordering me to cook food' (TSN, August 4, 1998, p. 6). He resented the way she answered him and whipped her buttock. He admonished her that if she does not want to be advised, she better leave their house.

"The victim went upstairs to prepare their bedding at around 10:30 in the evening. His wife woke up to feed their baby and she found that the victim was not in bed. He instructed his wife to look for the victim at his mother-in-law's house. She went to the said house and found the victim talking with his mother-in-law (TSN, August 4, 1998, p. 8). From that time, the victim never returned home."^[5]

Rosita, the accused's wife and the mother of the complainant, corroborated the testimony of her husband. According to her, she was at home on the various dates when the rapes were supposedly committed and she did not notice any unusual event in their household. She maintained that their family life was harmonious and that her husband was a good man and incapable of the crimes imputed to him.

The court *a quo*, not convinced by the defense urgings, convicted Guntang in its decision of 14 August 1998; it thereby adjudged:

"WHEREFORE, the Court finds ALEJANDRO GUNTANG guilty beyond reasonable doubt of INCESTUOUS RAPE aggravated by relationship where the victim is below 18 years old under Article 335 of the Revised Penal Code, in relation to Republic Act 7659 and the Court sentences ALEJANDRO GUNTANG, as follows: