

THIRD DIVISION

[G.R. No. 134764, June 26, 2001]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. BENJAMIN FABIA
ALIAS "BENTONG," APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

The victim's testimony, if positive and credible, is sufficient to sustain a conviction for rape. As a rule, the trial court's assessment of the credibility of witnesses and their testimonies will be upheld on appeal, absent any fact or circumstance of weight and substance that may have been overlooked, misapprehended or misapplied.

The Case

Benjamin Fabia alias "Bentong" appeals the July 7, 1998 Decision^[1] of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan (Branch 46), in Criminal Case No. U-9530, finding him guilty of rape and sentencing him to *reclusion perpetua*.

In an Information^[2] dated February 11, 1998, Third Assistant Provincial Prosecutor Noel C. Bince charged appellant with rape allegedly committed as follows:

"That on or about September 22, 1997, in the evening at barangay Bolaoen East, Municipality of Sison, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and felon[i]ously have sexual intercourse with Janet T. Ocumen, a minor seven years old and accused's step-granddaughter, against her will and without the consent of said Janet T. Ocumen, to her damage and prejudice.

"CONTRARY to Art. 335 of the Revised Penal Code, in relation with R.A. 7659, as amended."

On his arraignment on March 16, 1998, appellant, assisted by Atty. Danilo C. Bumacod, pleaded not guilty.^[3] After trial in due course, Judge Modesto C. Juanson rendered the assailed Decision, the dispositive portion of which reads as follows:

"WHEREFORE, finding BENJAMIN FABIA GUILTY beyond reasonable doubt of the crime of rape, under Article 335 of the Revised Penal Code, in relation to Republic Act 7659, the Court sentences Benjamin Fabia to suffer the penalty of RECLUSION PERPETUA; ordering him to pay Janet

Ocumen the sum of P50,000.00 as moral damages and P20,000.00 for exemplary damages and other accessory penalties.”^[4]

In view of the penalty involved, the appeal was filed directly with this Court.^[5]

The Facts
According to the Prosecution

In the People’s Brief,^[6] the Office of the Solicitor General presents the prosecution’s version of the facts as follows:

“Seven-year old Janet Ocumen [was] a Grade I student at the Bolaoen East Elementary School in Sison, Pangasinan (TSN, April 20, 1998, pp. 3-4). On September 22, 1997, after her school dismissal at 5:00 p.m., Janet stopped by the house of her friends, brothers Mario and Bryan Olpindo, to play with them and watch television (TSN, April 13, 1998, pp. 4-5). About an hour later, Janet announced that it was time for her to leave (*Ibid.*, p. 5). Accompanied by Mario and Bryan, Janet then headed for home (*Ibid.*).

“On their way, they met appellant, Janet’s step-grandfather, who was also known as Bentong (*Ibid.*, pp. 5-6). With a trace of alcohol in his breath, appellant told Mario and Bryan that he would be the one to bring Janet home (*Ibid.*, pp. 6-7). Thus, Mario and Bryan bade Janet goodbye and went back home (*Ibid.*, p. 7).

“Appellant, however, did not immediately bring Janet home (TSN, April 30, 1998, p. 3). Instead, he brought her to a dike, where he forced her to lie down, and then removed her shorts (*Ibid.*). Unmindful of the pain he would cause, appellant inserted his penis, then his finger, into Janet’s vagina (*Ibid.*, p. 4). Apparently satisfied, appellant hurriedly stood up and warned Janet not to tell anybody what he had done (TSN, May 14, 1998, p. 2). He then brought Janet home (*Ibid.*).

“Upon Janet’s arrival at home, Rosela, her mother, [then] proceeded to change her daughter’s clothes (*Ibid.*, p. 10). Rosela noticed that Janet’s uniform was wet and her shorts were missing (*Ibid.*, pp. 10-12). Asked about this, Janet revealed to her mother that her Lolo Bentong made her lie on the dike, undressed her, and then sexually abused her (*Ibid.*, pp. 9, 11). She then accompanied her mother to the back of their house, where a little while earlier, just before entering their house, she had left her shorts (*Ibid.*) Rosela got her daughter’s shorts which, like the latter’s uniform, was wet and soiled (*Ibid.*).

“After recovering from the shock caused by Janet’s revelation, Rosela informed her husband Domingo about what appellant, his stepfather, had done to their daughter (*Ibid.*, p. 14). With grief and anger in their hearts, Domingo and Rosela reported the matter to the *barangay* captain, and then filed a complaint against appellant before the police authorities at the Municipal Hall in Sison, Pangasinan (*Ibid.*, pp. 14-15).

"On September 26, 1997, Janet submitted herself to medical examination. The internal examination conducted by Dr. Godofredo G. Garcia showed that Janet had a "fresh laceration at 6° and 9° of the perineum" (TSN, April 15, 1998, p. 3). Her hymen, which could hardly admit Dr. Garcia's small finger, was still intact (*Ibid.*, pp. 3-4).

According to the Defense

The trial court summarized the evidence for the defense as follows:

"The defense claimed that: Benjamin Fabia, 31 years old, married, [a] farmer and a resident of Bolaoen East, Sison, Pangasinan, is married to Corazon Ocumen-Fabia, whose son, Domingo Ocumen, is the father of Janet Ocumen, complaining witness in this case. Benjamin is the 2nd husband of Corazon. The children of Corazon in her first marriage are at odds with Benjamin, possibly because of their age gap, Corazon is 50 while Benjamin is 31. Principally, the reasons why Janet Ocumen's parents filed this case against Fabia, are the following:

- '1. The children of Corazon wanted to break the relationship between Benjamin Fabia and Corazon Fabia;
- '2. Domingo Ocumen and his wife refused to receive words of advice from Benjamin, and on the contrary spouses Domingo always uttered bad words against Benjamin;
- '3. Relatives of the late husband of Corazon disliked [Fabia] very much x x x.

"Benjamin Fabia had professed innocence, and denied the victim's accusation. Benjamin contended that on 22 September 1997 at about 3:00 [p.m.], he was at their farm weeding grasses up to 6:00 [p.m.] Benjamin noticed the coming rain. He decided to go home. On his way home, he met Janet with two other children who were also going home. Janet's house is near his house about 10 meters away. Janet was walking ahead of him about two (2) meters apart. When they reached their respective houses, he accompanied Janet up to the porch of her house. Upon seeing her parents, He even told them, '[H]ere's your daughter, - and if she will encounter [a] problem, you will not shoulder [the] expenses.' Benjamin Fabia in effect was telling the Court that nothing happened between him and Janet on September 22, 1997 at about 6:00 [p.m.] at the ricefield or anywhere else. This was corroborated by Corazon Fabia and Maura Ramos, defense witnesses.

"The defense presented the following witnesses, namely: Maura Ramos, Corazon Fabia, and Benjamin Fabia and closed its case."^[7]

Trial Court's Ruling

Rejecting appellant's defense, the court *a quo* ruled thus:

"Janet's declaration in Court rings true x x x throughout. Her positive and categorical testimonies that Fabia inserted into her vagina his penis prevails and outweighs Fabia's declaration of innocence and denial of Janet's accusation. The Court is not persuaded that the motives behind the filing of this case was the hatred and resentment of the children of Corazon Fabia and relatives of the first husband of Corazon. A child, 7 years old, could not be instigated to falsely testify against Fabia."^[8]

That the victim's hymen was still intact was of no moment. Citing jurisprudence, the trial court held that it was enough that appellant's penis had touched her vagina.

Assignment of Error

In his Brief, appellant imputes this sole error to the trial court:

"The Court *a quo* gravely erred in finding that the guilt of the accused-appellant for the crime charged has been proven beyond reasonable doubt."^[9]

The Court's Ruling

The appeal is devoid of merit.

Main Issue: **Sufficiency of Prosecution Evidence**

In the review of rape cases, jurisprudence has laid down the following guiding principles:

"(a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge;

"(b) considering that, in the nature of things, only two (2) persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and

"(c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense."^[10]