

SECOND DIVISION

[G.R. Nos. 128153-56, July 19, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICENTE BUISON Y PUNSALAN, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

VICENTE BUISON Y PUNSALAN was charged before the trial court with four (4) counts of rape committed against his own daughter, ADELINA T. BUISON, and found guilty as charged. He was sentenced to *reclusion perpetua* for each rape and ordered to indemnify the offended party P50,000.00 for moral damages and to pay the costs.^[1]

Adelina was still a toddler when her mother was abandoned by her father, the accused Vicente Buison, for another woman. Adelina's longing for fatherly affection was quenched when her long lost father finally visited her after an absence of more than ten (10) years. He promised to send her to school if she would go with him to General Santos City. In her excitement, she forgot to ask permission from her mother and grandfather with whom she was then staying in Talisay, Negros Occidental.

On 15 August 1991 at around 9:00 o'clock in the evening, three (3) months after the father-and-daughter reunion, something which Adelina never expected happened. She was sleeping on the floor of her father's shanty together with her two (2) minor stepsisters when she was awakened by the crushing weight of a person on top of her. When she opened her eyes she found herself naked with her father on top of her frantically trying to insert his penis into her vagina. Sensing his evil intention she repeatedly boxed him but her puny efforts failed to overcome his masculine strength. Forthwith he made a pumping movement while covering her mouth to prevent her from screaming. The sexual assault was consummated in about three (3) minutes. She remonstrated, "Why did (sic) you do this to me? I am your daughter." He simply shrugged and then released a devilish laugh as he remarked, "You are still a virgin." Adelina was so devastated she could only drown her sorrows in her own tears.

Early dawn of 16 August 1991 Adelina was sound asleep when again the accused removed her panty, bra and duster and mounted her once more. He mercilessly abused her against her will. At this juncture, she asked her father, "Why did (sic) you do this to me? I am your daughter." Having satiated his lust he simply ignored her entreaty. Now overcome by physical and emotional strain, she slept without putting back her clothes. But all these she kept to herself in the meanwhile for fear that the accused would carry out his threat to kill her if she revealed his sexual abuse to anybody.

The third rape incident happened at around 9:00 o'clock in the evening of the same day, 16 August 1991 when the accused undressed inside the room in front of his daughter who saw her father's penis dangling. She was so stunned she did not know what to do. He ravished her again, kissing her on the lips and on other parts of her body, finally culminating in the insertion of his penis into her organ. The fear, distrust and despair that pervaded her whole being that she would not dare report the outrage to anybody, not even to her mother or grandfather in Bacolod, since her father would pry into her letters. Neither could she seek refuge in her stepmother Mila for she too could not be trusted, nor from her neighbors, nor the police for fear that the accused would learn about her betrayal and then harm her.

One day a glimmer of hope presented itself when she was asked by her father to accompany him to Davao City. She readily acceded as she planned to disclose to her uncle Rodrigo who was residing there what her father had been doing to her. On 25 October 1991, together with a truck helper, the accused and daughter Adelina left General Santos City in a cargo truck in a three (3)-vehicle convoy of Brian Freight Trucking where the accused was also employed as a driver. Some ten (10) to twenty (20) minutes after leaving the city, the accused pretended that he could not drive fast enough and suggested to the truck helper to transfer to another vehicle in the convoy. Apparently, this was a ploy to carry out his diabolical scheme. As soon as the truck helper left, the accused poked a knife at his hapless daughter and, as before, sexually abused her right inside the truck. After three (3) minutes of sexual assault the accused muttered, with some false air of regret, "You are no longer a virgin." He then told her that they would proceed to the house of his brother Rodrigo in Davao City but, strangely, they headed back instead to General Santos City.

When she could no longer bear the agony and the pangs of humiliation, she ran away from home and found solace in Fely Bartiana whom the accused had introduced to her earlier as his godmother in his wedding. Three (3) days after Adelina narrated her harrowing experience with her father to Fely, the latter brought her to the Department of Social Welfare and Development (DSWD) which helped her file the present cases.

Dr. Virginia Ramirez, the medico-legal officer who examined Adelina, testified at the trial that while no semen was found in the complainant's vagina there were scars at 8:00 o'clock and 5:00 o'clock positions which could have been caused by a male organ.^[2]

Accused-appellant testified in his defense that he first met his daughter Adelina, after a long while, on 17 May 1991 when she was only fifteen (15) years old. He was then visiting his relatives in Victorias, Negros Occidental, when his mother met Adelina by chance and informed her of his presence in the area. In no time, Adelina went to his house and tearfully embraced him when they met. In the course of their reunion, Adelina learned that he was returning to Mindanao in a week's time and insisted in going with him. He suggested instead that she stayed with her uncle Rodrigo in Davao City because he was better off financially, but Adelina was persistent. In June 1991 he brought her with him to General Santos City.

Accused-appellant countered that the rape incidents that occurred at 9:00 o'clock in the evening of 15 August 1991 and dawn of the following day could not have possibly happened because on said dates he was on a trip to Davao City and returned to General Santos City at around 2:00 o'clock in the afternoon of 16

August 1991.

Although he was already at home in the evening of 16 August 1991, the time when the third rape was reportedly committed, he maintained that nothing unusual happened because his wife, three (3) children, and Adelina were all in the house with him.

As for the fourth rape that allegedly happened on 25 October 1991, he insisted that while it was true that he was on a midnight trip to Davao City, Adelina was left behind at home with his wife and three (3) children.

He posited that the filing of the rape charges was impelled by some ill feeling that the complainant harbored against him and his family. He recalled that at one time, when Adelina was being scolded for coming home late from school, she grumbled and told his wife: "You try to discipline me (when) you did not even provide a can of milk for me x x x x My grandfather who reared me up did not even discipline me, how much (sic) from (sic) you, I came here when I'm already grown up."^[3]

Mila Buison, wife of the accused, testified that Adelina was welcomed in their home as a member of the family. In fact, she and her husband provided her everything that their children should have, including food and education. She likewise corroborated the testimony of the accused that in the evening of 15 August 1991 she was in their house with Adelina and the three (3) children, thereby contradicting the claim of the complainant that she (her stepmother) was in the hospital at that time with her youngest son. She also asserted that she was with her children and the complainant herself inside the house at the time when her husband allegedly abused the complainant on 16 August 1991 and 25 October 1991. Although she did not know what motivated Adelina to make these imputations to her husband, she could only surmise that the complainant resented their attempts at instilling discipline in her as was natural of parents. Often, Adelina would brusquely reject any form of paternal correction saying that they (she and the accused) did not have the right to discipline her because they did not bring her up.

In support of the defense, Bonnie Bantacalo, the truck helper of the accused, claimed that he was travelling with the accused on the night of 15 August 1991 on their way to Davao City. At 8:00 o'clock in the morning of the next day, they unloaded their cement cargo after which they left Davao City and headed back to General Santos City, arriving there at 2:00 o'clock in the afternoon. On 25 October 1991 the same thing happened as he and the accused delivered their cargo of cement, after which they left Davao City for General Santos City and reached their destination at 2:00 o'clock in the afternoon.

In convicting accused-appellant Vicente Buison, the trial court gave full credence to the testimony of the private complainant and rejected the defense of alibi -^[4]

Careful scrutiny of the evidence for the prosecution yielded the conclusion that the complainant recounted what exactly happened. She was ravished by her own father barely three months after she started living with him and her stepmother x x x x

The defense of alibi and denial cannot prevail over the very positive and veracious declarations of the complainant. In fact, the father of the