

## EN BANC

[ G.R. No. 126115, January 26, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALFONSO BALGOS, ALIAS "LUPOG," ACCUSED-APPELLANT.**

### D E C I S I O N

#### PER CURIAM:

In a criminal Complaint, dated 9 November 1995, Alfonso Balgos, alias "Lupog," was accused by Crisselle Ilanga Fuentes, a six (6) year old child, of the crime of rape. The complaint<sup>[1]</sup> reads:

The undersigned complainant accuses ALFONSO BALGOS, alias "LUPOG", a resident of Brgy. Libas, Roxas City, Philippines, of the crime of RAPE, defined and penalized under Article 335, par. 3 of the Revised Penal Code, as amended by Republic Act No. 7659, committed as follows:

That on October 8, 1995 at about 2:00 o'clock in the afternoon, in the City of Roxas, Philippines, and within the Jurisdiction (sic) of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously had (sic) carnal knowledge with the undersigned who is six (6) years old, to the damage and prejudice of the complainant in such amount as may be awarded to her under the New Civil Code of the Philippines.

CONTRARY TO LAW.

Upon arraignment on 21 February 1996, the accused-appellant, assisted by counsel *de officio*, pleaded "not guilty" to the crime charged.

The facts are as follows:

On the fateful day of 8 October 1995, at around 2:00 o'clock in the afternoon, Crisselle Fuentes went to the house of the accused-appellant to play with Michelle and Waday, both surnamed Balgos and nieces of the accused-appellant.<sup>[2]</sup> Since the house of the accused-appellant abuts a river, the three girls played near the window so they could watch the small crabs (calamangi) wallowing in the said river. While they were playing, the accused-appellant went up to Michelle and asked her to go outside and buy cheese curls. When Michelle left the house, the accused-appellant directed her attention towards Crisselle. He opened the zipper of his pants.<sup>[3]</sup> He then took Crisselle by the right forearm and made her hold his penis for a short time.<sup>[4]</sup> When Michelle came back, the accused-appellant asked her and Waday to go outside and buy more cheese curls. The two girls acceded and left Crisselle with the accused-appellant. Whereupon, he closed the door and locked the same. He then removed Crisselle's shorts and underwear, took off his own pants and brief and

laid her down on a mat.<sup>[5]</sup> The accused-appellant next went on top of Crisselle and used his hand to direct his penis towards the opening of her vagina.<sup>[6]</sup> He made a push and pull movement with penis into Crisselle's vagina which caused her to feel pain.<sup>[7]</sup> However, the accused-appellant could not penetrate Crisselle's vagina and was only able to push his penis against the opening of the same.<sup>[8]</sup> Because of this, he re-positioned his penis and tried again to penetrate Crisselle's organ.<sup>[9]</sup> Despite this effort, he still failed.<sup>[10]</sup> The accused-appellant stopped his bestial act when he noticed through the window that Michelle and Waday were returning and were about to unlock the door. He then put on his pants, covered Crisselle with a blanket and had her put on her underwear. When Michelle and Waday entered the house, Crisselle was still covered with a blanket.

Crisselle did not tell anybody about the incident. However, on 12 October 1995, Crisart Fuentes, the older brother of Crisselle, told his mother, Criselda Fuentes, that Michelle and Waday had informed him that Crisselle was raped by the accused-appellant.<sup>[11]</sup> Criselda then asked Crisart to call Michelle and Waday to confirm his story. Upon being asked if Crisselle was raped by the accused-appellant, Michelle and Waday answered in the affirmative.<sup>[12]</sup> Thereupon, Criselda informed her husband, Arturo Fuentes, about the incident.<sup>[13]</sup> The spouses Fuentes asked Crisselle if the story was true. Crisselle cried and confirmed that she was raped by the accused-appellant.<sup>[14]</sup> Thereafter, Crisselle and her parents went to their Barangay Captain, Loreto Araw-araw, to report the incident.<sup>[15]</sup> The Barangay Captain, together with two of his *tanods*, picked up the accused-appellant and brought him to the Barangay Hall for questioning. Asked if he indeed raped Crisselle, the accused-appellant denied the accusation.<sup>[16]</sup> The Barangay Captain then asked Crisselle about the incident. Crisselle recounted her harrowing experience at the hands of the accused-appellant.<sup>[17]</sup> After finishing his inquiry, the Barangay Captain brought Crisselle, her parents and the accused-appellant to the police station for further investigation.<sup>[18]</sup>

The following day, Criselda brought Crisselle to the Roxas Memorial General Hospital for medical examination. Crisselle was attended to by Dr. Ma. Lourdes B. Lañada, a gynecologist-obstetrician, who, after her examination, issued a medical certificate<sup>[19]</sup> which states:

Physical Examination: No bruises, hematoma noted

I.E. Vagina - Introitus - admit one index finger with ease

Hymen - + 0.2 CM. Lacerated wound at 3 o'clock position (-) bleeding noted

Discharges - Negative

Spermatozoa Determination - Negative<sup>[20]</sup>

In his defense, the accused-appellant denied raping Crisselle but claimed that he only inserted his left index finger into her vagina because he was sexually aroused at that time.<sup>[21]</sup> In support of this contention, the accused-appellant testified that if

his penis, with a circumference of 3 ½ inches,<sup>[22]</sup> had entered the vagina of Crisselle, the laceration of her hymen would have been bigger and not just 0.2 cm. <sup>[23]</sup> On cross-examination, the accused-appellant admitted that on 8 October 1995, he asked Michelle and Waday to go outside to buy food<sup>[24]</sup> but he was never left alone with Crisselle since his first cousin, Enecito Dalton, and his uncle, Rogelio Manalo, were also inside the house and listening to the radio.<sup>[25]</sup> He also admitted that he covered Crisselle with a blanket, but claimed that it was not only Crisselle who was under the blanket but also himself and his two (2) nieces, Michelle and Waday.

In its Decision, dated 19 July 1996, the trial court believed what it described as the "straightforward, clear and convincing" open court declarations of Crisselle as against the uncorroborated testimony of the accused-appellant.<sup>[26]</sup> It debunked the defense of the accused-appellant that he merely inserted his finger inside the vagina of Crisselle, saying that this was merely a last ditch effort to save himself from criminal responsibility.<sup>[27]</sup> The trial court also noted four circumstances that pointed towards the criminal culpability of the accused-appellant. First, his admission that he asked Michelle and Waday to buy food and leave the house showed his intention to create an opportunity to commit his "bestly act" against Crisselle.<sup>[28]</sup> Second, his disposition to play with young girls revealed his libidinal predilection" which he wanted gratified even on young girls like Crisselle.<sup>[29]</sup> Third, his admission that he was sexually aroused exposed his lustful desire for flesh.<sup>[30]</sup> Fourth, his failure to show that Crisselle was motivated by ill-will in fabricating her accusation lent credence to the testimony of his victim.<sup>[31]</sup> In the light of these observations, the trial court convicted the accused-appellant of the crime of rape and imposed the supreme penalty of death, to wit:

WHEREFORE, finding accused Alfonso Balgos alias "Lupog" guilty beyond reasonable doubt of the crime of rape defined and punished under Art. 335 of the Revised Penal Code, as amended by RA 7659, judgment is hereby rendered imposing upon him the supreme penalty of death. He is likewise, ordered to indemnify private complainant Crisselle Fuentes fifty thousand pesos (P50,000.00) as civil damages.<sup>[32]</sup>

In accordance with Section 10, Rule 122 of the Rules of Court, the case is now before us for automatic review.

In his lone assignment of error, the accused-appellant contends that:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF RAPE AND NOT OF ACTS OF LASCIVIOUSNESS CONSIDERING THE TESTIMONY OF THE VICTIM HERSELF AND THE ACCUSED APPELLANT.<sup>[33]</sup>

The accused-appellant again plays up the fact that Dr. Lañada's medical examination showed that the hymen of Crisselle only had a 0.2 cm. laceration.<sup>[34]</sup> On this score, the accused-appellant admits that something was indeed inserted in Crisselle's vagina. However, he points out that it was only his finger that inflicted the said laceration and not his penis with a 3 ½ inch circumference.<sup>[35]</sup> He insists that if his penis was the one inserted in the victim's vagina, the laceration would have been more severe and she would have died from hemorrhaging.<sup>[36]</sup> The accused-

appellant, likewise, asserts that since the prosecution claimed that there was an actual penetration, it must prove, therefore, that the small laceration in the victim's hymen was caused by the accused-appellant's sex organ. Considering the physical evidence adduced in the case, the accused-appellant claims that he should have only been convicted of acts of lasciviousness and not rape.

After a meticulous review of the evidence in this case, we find no cogent reason to disturb the findings of the trial court. The evidence clearly establishes the guilt of the accused-appellant beyond reasonable doubt.

Prefatorily, we note the well-established rule that the trial court's evaluation of the testimonies of witnesses is given great respect by the appellate court in the absence of proof that it was arrived at capriciously or that the trial court disregarded material facts which might affect the outcome of the case.<sup>[37]</sup> The rationale behind this rule is that the credibility of a witness can best be determined by the trial court since it has the Opportunity to observe the candor and demeanor of the witnesses.<sup>[38]</sup>

In the present case, the trial court is correct in giving credence to Crisselle's testimony over that of the accused-appellant. Crisselle's testimony was simple, concise and cohesive.

Q When Michele (sic) and Waday left the house what did Alfonso Balgos do, if there were any?

A He closed the door and then locked it and then he undress (sic) me and he also undress (sic) himself and took off his brief.

Q When you said undress you meaning Alfonso Balgos removed your entire clothing?

A I have (sic) my clothes on only the short (sic) and panty were taken off.

Q When your panty and short (sic) was (sic) already removed by Alfonso Balgos and he already removed his pants and briefs (sic), what did Alfonso Balgos do, if any?

A He lay (sic) on top of me and his penis he put it on my organ.

Q Where did you lay (sic) down?

A On the mat without a pillow.

Q You said Alfonso Balgos while you were lying down on the mat without a pillow placed himself on top of you, did he placed (sic) his penis in your organ?

ATTY. POTATO :

Objection, leading.

COURT :

Already testified.

PROSECUTOR :

Q When Alfonso Balgos placed his sex organ into your vagina, what was Alfonso Balgos doing?

A His organ, he pushed it in and out of my organ.

Q When Alfonso Balgos placed his organ into your vagina in and out, what did you feel?

A Pain.

Q About how long did Alfonso Balgos placed (sic) his organ into your vagina in and out about how long?

A For a short period.

COURT :

Q Did his organ enter your vagina?

A No sir.

PROSECUTOR :

Q But you can feel that it touched your vagina?

ATTY. POTATO :

Objection, leading.

COURT :

Sustained.

PROSECUTOR :

Q When Alfonso Balgos stopped placing his organ into your vagina but having it in and out what did Alfonso Balgos do?

A He again put his penis and push (sic) it in and out motion.

COURT :

Q What happened to your vagina if anything happened to it?

A Nothing.

Q You said that the accused pushed his again in and out of your vagina, how long did he do that?

A For a short period.

PROSECUTOR :

Q When did Alfonso Balgos stop placing his organ into your vagina?

A When Michele (sic) and Waday arrived.

Q How did you know that Michele (sic) and Waday arrived already?