

## EN BANC

[ G.R. No. 137714, September 08, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROBERTO BANIGUID Y PASSION, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court, Branch 110, Pasay City, finding accused-appellant Roberto Baniguid y Passion guilty beyond reasonable doubt of rape against his minor daughter, Josibelle Baniguid, and sentencing him to death and to pay complainant the amount of P75,000.00, as civil indemnity, and the costs of the suit.

The information<sup>[2]</sup> against accused-appellant, based on the complaint filed by the offended party, alleged -

That on or about the 4th day of January 1995, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Roberto Baniguid y Passion, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of her minor daughter-private complainant Josibelle V. Baniguid against her will and consent.

Contrary to law.

Upon arraignment, accused-appellant entered a plea of not guilty, whereupon trial ensued.

The evidence for the prosecution established that complainant was born on October 28, 1980, the second of four children by Josefa Victorino and accused-appellant.<sup>[3]</sup> The family was then residing in Sun Valley, Pasay City, but in 1992 complainant's mother left them to live in Bulacan with another man. The family residence in Pasay City was sold and complainant, her father, and two brothers transferred to a small house in Cainta, Rizal.

On the night of March 23, 1993, while complainant and her brothers were asleep in their house in Cainta, Rizal, accused-appellant had carnal knowledge of complainant. Complainant tried to resist, reminding her father that she is his daughter, but her pleas went unheeded. Complainant could not shout because she was afraid of her father. With complainant's brothers asleep, accused-appellant was able to make her submit to his will.

The next morning, complainant ran away from their house and worked as a domestic helper. Nonetheless, from time to time, complainant checked on her father.

She learned that her father got so angry after finding that she had run away that he burned her clothes. Later, upon the advice of her employer, complainant returned home to her father, but not before telling him that she would leave if he abused her again.

On January 8, 1994, complainant, her father, and her two brothers left Cainta, Rizal to live in San Nicolas. Upon arriving the next day, they did not find complainant's grandmother but stayed in the latter's house, together with complainant's uncles who live in the same house. That night, while complainant was sleeping with her two brothers in the living room, accused-appellant came to her again, and forced himself on her. As before, she tried to resist his advances and pleaded with him to stop, but her efforts proved futile. Complainant was afraid of her father because he once hit her with a piece of wood. After her father finished raping her, she put on her panties and shorts and cried through the night until she fell asleep. Later, she disclosed her ordeal to her cousin, Juan, but he did nothing to help her.

Meanwhile, her father got her employed as a domestic helper. She was earning P700.00 a month, but accused-appellant took all her wages. After working for two months, complainant returned to her family to look after her brothers because she had been informed by them that they were being maltreated by their father.

Accused-appellant again made complainant work as a housemaid for another family. As before, her monthly salary was P700.00 but she received only P100.00 because her father took the rest of her money. She never received her fourth month salary because it was used to pay for her tuition fees. She tried going to school but was unable to finish the third grade because her father wanted her to go to Manila with him.

In the morning of January 4, 1995, complainant and her father left San Nicolas, Pangasinan to live in Pasay City again. They arrived at the house of her father's "kumpare" in Vitales, Pasay City in the evening. The place was a one-room shanty lit only by a gas lamp. Complainant went to sleep on the floor while her father engaged in a drinking spree with the neighbors. After a few moments, she was awakened by her father who again demanded to have sex with her, as she lay on her right side. Her father's "kumpare" was sleeping at arm's length away from them. Complainant just covered her eyes with her hands and cried, helpless at what her father was doing to her.

Complainant again ran away from home. She went to the house of Edna Lopez, her mother's "kumare," at Sun Valley, Pasay City. She told Edna Lopez that she had been raped by accused-appellant. Edna Lopez told her to stay with her, took care of her, and gave her P50.00 a month as allowance, but did nothing to help her in reporting to the authorities what her father had done to her.

Later, complainant's mother came, took complainant from the custody of Edna Lopez, and brought her to Bulacan to work as a housemaid for a certain Rey (Rick) Macatangay. Complainant's mother took her monthly salary of P700.00. For the four months she worked with the Macatangay household, complainant only received P300.00. Complainant also informed her mother that she was raped by accused-appellant but her mother likewise did nothing to help her report to the proper authorities what she had gone through.

After some time, complainant asked permission from her employer in Bulacan to visit her former employer. Complainant never returned to Bulacan nor did she join her family in Pasay City. She went to visit her friend, Mark, in the squatters' area near Rivera Village in Pasay City. She spent the night with her godmother who lived in that place. Thereafter, she stayed with one friend after another. She also stayed in the house of her boyfriend, Joey, with whom she had sexual intercourse twice. She admitted that she smoked shabu with Joey for some time. Joey also gave her some money to spend for herself.

Later, while staying in the house of another friend, complainant learned that a woman and a policeman were looking for her. She fled and hid in a passenger jeepney then under repair. While she was sleeping inside the vehicle, she was chanced upon by a barangay official who reported the matter to the barangay captain, Daniel Detera.<sup>[4]</sup> Detera summoned complainant to his office and asked her why she was sleeping inside the jeepney. Complainant told him that she had run away from home because her father had abused her. Detera accompanied her to the Pasay City Police Station where she filed a complaint against accused-appellant.<sup>[5]</sup>

At the police headquarters, the station commander, Senior Inspector Cristeto Escobia, upon learning from complainant that she had been abused, sent PO3 George Clavo and PO3 Danilo Tabucol to look for accused-appellant. The policemen and complainant boarded a mobile car and proceeded to Gat. Mendoza St., Sun Valley, Pasay City, where they found accused-appellant. He was surprised to see her daughter. When asked by the police to go with them to their station, accused-appellant complied voluntarily.<sup>[6]</sup>

Accused-appellant was investigated at the police precinct. After informing accused-appellant of his constitutional rights, SPO3 Milagros Carrasco, the police officer on duty at the precinct's Women's Desk, asked him if he wanted to give a statement regarding his daughter's complaint. Aside from denying the accusations made by his daughter, accused-appellant declined to give any statement to the police, whereupon SPO3 Carrasco referred complainant to the Philippine National Police Crime Laboratory for medicolegal examination and prepared the booking and information sheet for accused-appellant. Accused-appellant was then turned over to the Central Investigation Division of the same precinct, after which he was ordered detained without bail. Complainant executed a sworn statement before SPO3 Carrasco. Thereafter, the matter was referred to the Office of the City Prosecutor of Pasay City for indictment.<sup>[7]</sup>

Accused-appellant testified in his defense as follows: He denied the allegations against him. He denied he abused complainant while they were residing in Cainta, Rizal, because, according to him, complainant stayed in the house of his former employers, spouses Reynaldo and Dina Tanio. Accused-appellant claimed that complainant, accompanied by Dina Tanio, only visited him from time to time.

According to accused-appellant, about the second week of January 1994, accused-appellant and his four children went to San Nicolas, Pangasinan. They stayed in the house of his brother, Mariano Baniguid, together with his mother, his in-laws, nephews, and nieces. Accused-appellant averred that on the night of their arrival in San Nicolas, Pangasinan, complainant slept in another house.

On November 1994, accused-appellant and his eldest child, Gilbert, went to Manila. He let Gilbert stay with his "kumpare," Dominador Reyes. Complainant was left in Pangasinan, in the care of a certain Atty. Gonzales, who agreed to send complainant to school in exchange for her taking Atty. Gonzales' granddaughter to school. According to accused-appellant, he was later told by the son-in-law of Atty. Gonzales that complainant had not been attending school but was only gallivanting with her friends. Accused-appellant was asked to take complainant with him lest something bad befell her because of her wayward nature. Accordingly, accused-appellant took complainant with him to Manila, where they stayed in the house of his "Kumpareng Domeng" (Dominador Reyes) in Gatchalian Extension, MIA, Pasay City. Accused-appellant claimed that on the night of their arrival, complainant slept with his "kumare," Edna Lopez, who lived in a place about 20 minutes walking distance from the house.

Accused-appellant stated that, on June 17, 1996, he saw complainant at the house of his "Kumpareng Domeng" high on drugs so he advised her to go home to his "Kumareng Edna" (Edna Lopez). According to him, in the evening of that day, he saw complainant on board a police mobile with policemen who were looking for him because his daughter had complained that he raped her. When he tried to talk to her daughter, the policemen prevented him from doing so.

At the police station, accused-appellant was unable to explain his side. Accused-appellant testified that complainant did not know what to say regarding his daughter's complaint so police officers coached her on what to indicate in her sworn statement. He claimed that someone in the police station took complainant's hand and made her point to him as the perpetrator of the rape.<sup>[8]</sup>

On February 15, 1999, the trial court rendered its decision, the dispositive portion of which reads:<sup>[9]</sup>

IN THE LIGHT OF ALL THE FOREGOING, judgment is hereby rendered finding the Accused guilty of the crime of Rape defined in and penalized by Article 335, as amended by Republic Act 7659 and hereby sentences the said Accused to suffer the supreme penalty of DEATH.

Conformably with the Decision of our Supreme Court in "People versus Esteban Victor, G.R. No, 127903, July 9, 1998," the Accused is hereby ordered to pay the private complainant the amount of P75,000.00 by way of actual damages and to pay the costs.

SO ORDERED.

In this appeal, accused-appellant argues that the trial court erred in convicting him of rape. He contends that the trial court blindly believed the testimony of complainant despite its falsehood. For these reasons, he maintains that his defense of denial and alibi should be upheld.

In cases of rape, this Court has been guided by the following principles in its review of trial court decisions: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person of the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with