

SECOND DIVISION

[G.R. No. 134581, October 26, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENJAMIN DEL ROSARIO Y NAVARRO, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

BENJAMIN DEL ROSARIO Y NAVARRO was found guilty of raping his own daughter-in-law and sentenced to *reclusion perpetua* by the trial court. He was also ordered to indemnify his victim Ritchie Quisim del Rosario in the amount of P50,000.00 as moral damages and to pay the costs.^[1] He is now before us assailing the credibility of the victim and asserting that the court *a quo* erred in perfunctorily dismissing his alibi as well as paying no heed to the testimonies of his witnesses.

The version of the prosecution is that on the night of 30 January 1997 Ritchie Quisim del Rosario called on her father-in-law Benjamin del Rosario to borrow P1,000.00 to buy medicine for her asthma. Benjamin readily granted her request and instructed her to pick up the money the following day at his house in No. 47 Diego Silang St., Cubao, Quezon City.

As instructed, Ritchie was at the house of her father-in-law the following day, 31 January 1997, at ten o'clock in the morning. The accused was alone in the house. According to Ritchie, he told her to wait in the sala as he was going to take a bath. After a while, he came out of the bathroom with only a towel wrapped around his waist.^[2] Suddenly he grabbed her and dragged her to his room, locked the door, got his gun from the drawer and threatened her with it. Ritchie attempted to resist but the accused twisted her arm and then tied both arms at the back with a blanket. Undaunted, she again tried to break free but this time the accused punched her on the right thigh.^[3] Benjamin then forcibly removed her shorts, panty, bra and her blouse, mounted her, and inserted his penis into her organ. Ritchie's entreaties and shouts for help proved futile. After her attacker had finally satisfied his lust, he ordered her to dress up. He warned her not to tell anybody saying, "*P - - - ina mo, huwag kang magkakamaling magsalita x x x x*" He threatened to kill her should she tell her husband Rogelio about the incident.^[4] The accused then flagged down a taxi for her but not before repeating his warning to keep the matter to herself.

On 4 February 1997 Ritchie finally decided to relate her tormenting experience to her mother-in-law Latsmi Siwani del Rosario who in turn revealed to Rogelio, the victim's husband and youngest son of the accused, what she was told.^[5] They wasted no time in reporting the matter to the police at Camp Crame where Ritchie was directed to undergo a medical examination at the PNP Crime Laboratory.^[6]

Dr. Emmanuel Reyes, the Medico-Legal Officer at the Crime Laboratory, testified on the result of his examination:^[7]

i) the subject came in as fairly developed, fairly nourished and coherent female. Her breasts were pendulous and with dark brown areola and nipples;

ii) contusions on the proximal 3rd of her right thigh measuring 10 x 3 cm. Just lateral to its anterior midline; abundant growth of pubic hair in her genitals; labia majora are full, convex and gaping with the dark brown labia minora presenting in between. On separation there was a congested vestibule and an abraded posterior fourchette with carunculae myrtiliformis x x x x

iii) the subject was in non-virgin state physically and for the physical injuries it was estimated to resolve in five to seven days.

Dr. Reyes clarified that the contusion on the right thigh could have been caused by the application of a blunt force on the area like a fistic blow or any hard instrument while the reddening of the vestibules and the abrasion on the posterior fourchette could have been caused by the forcible entry of a hard blunt object without the presence of adequate lubrication.

In his defense, accused Benjamin del Rosario testified that at around nine o'clock in the morning of 31 January 1997 he was on his way, together with his common-law wife Elizabeth Babala, to the Quiapo Church. Thirty (30) minutes later, they went to Raon to buy batteries for his wireless telephone, as evidenced by Exh. "6,"^[8] and thereafter they decided to drop by and take lunch at his sister's place at Blumentritt St., Sta. Cruz, Manila. There they whiled their time away until six o'clock in the evening when they finally left for Cubao to watch a Tagalog movie at the Remar Theater.

A couple of weeks later, or on 19 February 1997, at around eight o'clock in the evening, Benjamin and his common-law wife Elizabeth Babala boarded a jeepney to take them home to Diego Silang St., Cubao. After alighting from the jeepney, they were accosted by two (2) burly men. The two (2) introduced themselves as policemen and informed Benjamin that he was being charged with rape. He was forced to board a waiting police van and inside he recognized his son Rogelio del Rosario together with his common-law wife Ritchie Quisim del Rosario. When he asked his son why he was doing this to him, Rogelio scornfully replied, "*Maramot ka, matanda ka. Mabulok ka sa bilangguan.*"^[9] All the while that he was being maligned by his son, Benjamin simply kept quiet.

The accused further testified that on another occasion he again met his son Rogelio who told him that "*his door is (was) open if I (Benjamin) have a million to give him.*"^[10] Benjamin believed that the money would only be used by his son Rogelio, a self-confessed drug user and a casino gambler, to sustain his vices. Both Rogelio and Ritchie were in fact drug users according to the accused. For him, Rogelio was not only a dissolute person who never knew how to earn a living but a parasite who would often badger him for money to support his bad habits.

He asserted that the only reason why Ritchie was filing the rape charge against him was because of his decision to finally stop giving them support and his firm refusal to grant them, without any consideration, a piece of lot which the couple had been interested in. He clarified that previous to the alleged rape incident he had sold a parcel of land in Nitang, Novaliches valued at P600,000.00 to his son Rogelio for

only P200,000.00. In fact on 11 November 1996 Rogelio paid P40,000.00 as earnest money^[11] but he came back four (4) days later only to demand the return of P10,000.00 to try his luck at the casino. This infuriated the accused. But Rogelio shouted back at his father and wondered aloud why the accused would not want to give him back his money.

On 1 December 1996 Rogelio and Ritchie returned to their father's house in Cubao and demanded the remaining P30,000.00. He scolded them again for taking back what was supposed to be an earnest money, but Rogelio cursed him instead. At any rate, the couple got what they wanted. But a week later, they returned again, this time not only to demand from him the original title of his lot but even had the temerity to order him to execute a deed of sale in their favor. When he denied what seemed to be preposterous demands, Rogelio threatened him and said, "*Magsisisi ka. Lintik lang ang walang ganti.*"^[12] He never thought his son would make good his threat until a complaint for rape was lodged against him nine (9) days later.

The defense presented an array of witnesses who not only corroborated the alibi of the accused but also belied the claim of the complaining witness that she was at the house of the accused in Cubao at the time the alleged rape took place.

Paula del Rosario, a sister of the accused, narrated that on 31 January 1997, at around noontime, the accused and Elizabeth Babala were at her place at Blumentritt St., Sta. Cruz, Manila. They stayed there until six o'clock in the evening when they finally went home. Paula further revealed that her nephew Rogelio went to her house very often to ask or borrow money from her. On 20 February 1997 she met him at the police station and tried to convince him of the innocence of his father. But Rogelio spewed a seething and venomous remark, "*Maramot ho `yong matandang `yan. Ibig ko na ho siyang mamatay sa bilangguan.*"^[13]

Mario del Rosario, another son of the accused, testified that he and Ritchie and Rogelio were neighbors at LMR Compound, Gulod Novaliches. On the date of the alleged rape, he was with the couple the whole day helping them pack their things in their apartment as they were transferring to a new residence at Jordan Planes, Quezon City. He also helped them transfer their belongings to their new place.^[14]

Elizabeth Babala, the common-law wife of the accused, corroborated the testimony of Benjamin that he was at his sister's house at the time of the commission of the crime. She disclosed that when she asked Ritchie inside the police van how she and Rogelio could falsely accuse Benjamin, she allegedly shot back, "*Lintik, ganti-ganti lang!*"^[15]

Finally, Jaime Pascual, a neighbor of Rogelio and Ritchie in Novaliches, swore to having seen the two (2) in the morning of 31 January 1997. Before leaving for work, he was even reminded by Ritchie about the vehicle which he promised them a week earlier to be used for hauling their belongings as they were moving to their new place. When he arrived home from work at around six o'clock in the evening, he was again met by Ritchie who told him that her mother-in-law wanted to talk to him over the phone. Jaime then called up as requested only to be told that she (Ritchie's mother-in-law) could not pay the P1,000.00 rent for the vehicle that would be used in transporting their belongings. But Jaime assured Rogelio's mother that if she could pay the driver P250.00 he would just make other arrangements for the payment of the balance. At around 9:30 in the evening, he brought the vehicle to