

## SECOND DIVISION

[ G.R. Nos. 136138-40, December 22, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO BILING BISCO Y RAMOS, ACCUSED-APPELLANT.**

### D E C I S I O N

**BELLOSILLO, J.:**

**PABLO BISCO y RAMOS** alias *Biling* appeals to us the judgment of the trial court convicting him of three (3) counts of rape and imposing upon him the penalty of *reclusion perpetua* for each count.

In three (3) separate Criminal Complaints, complaining witness Celerina Barola alleged that she was raped about twenty (20) times although she could only remember clearly three (3) specific occasions: *first*, on 26 January 1996 in Sitio Batis Itaas, Brgy. Ambulong, Batangas City, when she was only eleven (11) years old, which happened at night inside her house; *second*, the following day, 27 January 1996 at around three o'clock in the afternoon; and lastly, on 26 March 1997 when she was twelve (12) years old.<sup>[1]</sup>

The three (3) cases were tried jointly upon agreement of the parties as they involved the same accused and complaining witness.

The first incident, as already adverted to, happened in the evening of 26 January 1996. According to complaining witness Celerina Barola, she was sound asleep in their house together with her younger sister and three (3) brothers when she was suddenly awakened by a man who placed himself on top of her and whom she recognized as his *Mamay Biling*, referring to accused-appellant Pablo *Biling* Bisco. Celerina narrated that when she woke up *Biling* was already inserting his organ into her genitalia and gratifying his lust. She could not shout because she was threatened with physical harm if she would make the mistake of telling anybody about the incident. As quickly as the sexual assault commenced he left her quickly right after without saying a word, thus leaving her to endure alone the physical and emotional pain wrought by his coerced sexual incursion.

The following day, 27 January 1996, at about three o'clock in the afternoon, accused-appellant molested Celerina again at the *sagingan* (cluster of banana plants) in Sitio Batis. She was on her way to take a book to a classmate when the accused suddenly pulled her hair and dragged her forcibly deep into the banana plantation. According to Celerina, the accused undressed her and then took off his own clothes. She tried to shout for help but the accused quickly covered her mouth, mounted her and raped her again. In her own words, "*H-n-n-dot niya ako*" ("He raped me").

The last time the accused sexually abused Celerina was on 26 March 1997. It

happened at about three o'clock in the afternoon. It was practically a reprise of the second incident as it occurred in the same banana plantation when she was also on her way to borrow a book from the same classmate, a certain Genevieve. Upon meeting Celerina, the accused likewise pushed her aside, pulled her hair, removed her clothes, placed himself on top of her, and like before, penetrated her. As soon as it was over, the accused told her to buy herself halo-halo, apparently to appease her. As she was still sobbing when she went to buy halo-halo from her aunt's store, her aunt asked her what was the matter. At first Celerina refused to answer the question but since her aunt Aida insisted, and even threatened to tell her father about it, she blurted out the truth. It was then that her sexual ordeal was finally brought to the attention of her family.

With the help of their barangay captain and other relatives, Celerina was brought to the police precinct on 28 March 1997 for investigation, after which, three (3) criminal complaints for rape were filed against accused Pablo Bisco.<sup>[2]</sup> This was corroborated by her aunt Aida Perancullo.<sup>[3]</sup>

On cross-examination, Celerina stated that during the first two (2) incidents of sexual abuse she opted not to tell anyone, not even her parents, because she was afraid that the accused would make good his threat to kill her. She remembered that every time the accused would abuse her she would bleed and suffer pain, although she said that her experience on 26 March 1997 was different because there was less pain and no more bleeding. She also revealed - what was not known before - that she was in fact raped by the accused for about twenty (20) times between her second and last experiences but could no longer recall the exact dates and times they were perpetrated.

According to Severa Barola, mother of the offended party, on 28 March 1997 her sister-in-law Aida Perancullo informed her about the rape of her daughter by the accused. So she lost no time in going to the house of the accused, a neighbor and a *kumpadre*, and confronted him. But the accused simply kept mum and did not say anything. Severa asked the wife of *Biling* why her husband sexually violated her daughter.<sup>[4]</sup> Instead of apologizing for *Biling's* behavior, his wife berated Severa for believing what the former claimed was obviously a blatant lie.<sup>[5]</sup>

On 28 March 1997 Celerina went to Dr. Cynthia Beron of the Batangas Regional Hospital for medical examination, which yielded the following results: external genitalia - infantile genitalia; no pubic hair; complete healed laceration at 7:00 o'clock position; incomplete healed laceration at 8:00 o'clock position and 3:00 o'clock position; hyperemia labial folds or reddish labia,<sup>[6]</sup> which was probably caused by friction or something which penetrated the vagina; the vagina admits one (1) finger with ease and two (2) fingers with slight difficulty; and negative for sperm cells.<sup>[7]</sup>

Accused Pablo Bisco strongly denied the charges against him. He swore that in the morning of 26 January 1996 he accompanied his *kumpadre* Roman and *kumadre* Severa to the hospital for a medical check-up of their son who was sick. As requested by the Barola couple, he stayed in the hospital until 6:00 o'clock in the morning of the following day. He likewise branded as a lie the allegation of Celerina that she was raped by the accused on 27 January 1996. He further stated that he could only think of politics as the reason for the charges against him. Explaining his

denial, he alleged that he refused to support the candidate of *barangay tanod* Briccio Ramirez who was an uncle of the complainant.

Both Julia Bisco, the wife of the accused, and Florencio Bisco, his son, testifying for the defense, informed the court that Severa Barola went to their house on 28 March 1997 and berated *Biling* for touching her daughter's private parts (*hinipuan*).<sup>[8]</sup>

After weighing the evidence of both parties, the trial court sustained the version of Celerina and convicted the accused of three (3) counts of rape and sentenced him to *reclusion perpetua* for each count, and to pay her P50,000.00 for moral and exemplary damages in each case, plus the costs.<sup>[9]</sup> The trial court pointed out that the offended party categorically asserted that she was raped by the accused for about twenty (20) times but could only recall specifically the incidents of 26 January 1996, 27 January 1996 and 26 March 1997 which were the only subjects of inquiry as she could no longer remember, much less supply, the necessary details for the rest of the rape incidents. The court *a quo* further noted that the offended party not only emphatically and steadfastly declared that she was raped by the accused but was even categorical in her description of the degree of pain she felt during the three (3) incidents of sexual abuse.

As regards the reason proffered by the accused, *i.e.*, that political differences might be the reason for the filing of the rape charges against him, the lower court said -

x x x x He (accused) has not shown any evidence to support that in fact he actively campaigned, supported and voted for a candidate who had opposed the candidacy of a relative of the complainant. There is also not one iota of evidence showing that the family of the complainant is politics minded and cared whether he belonged to the opposing camp. Besides, the complainant is so young as to delve in politics. And finally, the accused himself admitted that on the day the first rape was committed, he was with the parents of the complainant lending assistance when another child of the complainant's parents was brought to the hospital. He even claimed to have remained in the hospital during the night and left them only the following morning. This glaring circumstance only showed that there was no bad blood existing between the accused and the family of the complainant x x x x<sup>[10]</sup>

Accused-appellant decries his conviction despite the alleged incredible and inconsistent testimony of the complaining witness. He insists that: (a) he could not have raped the complainant on 26 January 1996 because he was at that time in the company of her parents at the hospital where their child was confined; (b) the alleged rape that took place on 27 January 1996 could not have transpired because the narration of Celerina that he undressed her and laid her clothes on the ground while he removed his pants as if a casual *coitus* would take place was in fact a description of the complainant's sexual experience with a certain Nilo Ilagan who was caught *in flagrante* with her by Florencio Bisco while Ilagan was still on top of her;<sup>[11]</sup> and, (c) it is contrary to human experience that she did not cry when she was supposedly raped on 26 and 27 January 1996 and seventeen (17) more times thereafter before 26 March 1997 but did so only after the last rape when she was seen crying by her aunt.<sup>[12]</sup>