

FIRST DIVISION

[G.R. Nos. 112164-65, February 28, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SOLOMON VILLANUEVA Y ODE, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

Lea Villanueva, 14, cried of repetitive incestuous rape. For two years she had been continuously, countlessly abused by her own father who with unmitigated perversity indoctrinated her into eroticism and libidinal gratifications. "*Pinagpaparausan niya ako,*" she bewailed.^[1] She suffered in anguish and isolation. Her revelations were horrid if not sickening. She turned to her mother who in her timidity and utter helplessness could only mutter, "*Ipinauubaya (ko) na sa Diyos.*"^[2] But deliverance must finally come and it did.

Barely three (3) days after her last incestuous encounter with her father her mother died. Lea seized the opportunity for relief. She ran to her maternal grandmother for solace. It was when she was under the care of her lola that the latter finally found out that Lea was repeatedly abused by her father. She was brought to a physician who examined her and found the lacerations on her private parts. They were too revealing to be ignored. Accordingly her father was charged, at least with two (2) counts of rape. Confronted with the charges Solomon Villanueva at first denied. He claimed that at the particular hours mentioned by Lea he was not home. But his alibi was totally rejected by the trial court which convicted him instead as charged.

He is now before us with a different pretension. As if exculpating, he now says his daughter Lea consented to their fornications. We are appalled.

Lea's maiden defloration was in their house along Dagupan Street, Tondo, Manila, around nine o'clock in the evening of 19 September 1990 when her father roused her from her sleep and brought her to his room. She was only 12 years and 4 months then. She was at once forewarned by her father not to tell anybody whatever he would do with her otherwise he would kill her as well as her mother and only brother. Then he removed her clothes after which he also took his off. Fear haunted her. He asked her to lie down on her back and placed himself on top of her. He inserted his organ into hers; she bled. After he was through he told her to go back to sleep.

Her sexual initiation was not meant to be her last. It became routine for almost two (2) years with her father, happening about four (4) times a week, each varying to maximize sexual euphoria. A pall of death loomed over every act.

On 14 June 1992 at around nine o'clock in the evening Lea was again ravished.

From the living room where she together with her mother and brother was sleeping she was dragged by her father to his room. "*Gagalawin daw niya ako,*" she narrated. He removed her T-shirt and short pants; he stripped, asked her to lie down, placed himself on top of her, inserted his penis into her vagina, and pumped for about thirty (30) minutes. He told her that what he was doing was for her own "good." After his "success," he threatened her again and ordered her to go back to sleep.

Three (3) days later, or on 17 June 1992, Lea's mother died. On 2 July 1992 she ran off to her grandmother. "*Hindi ko na matiis ang ginagawa niya sa akin.*"^[3] That same day she was accompanied by her granduncle to the National Bureau of Investigation where she was examined by Dr. Ruperto Sombillon, Jr., who found her "hymen, originally thick, wide, with superficial old-healed laceration at 6:30 o'clock position x x x edges of which (were) rounded and non-cooptable x x x vagina walls, moderately lax x x x rugosities shallow."^[4]

Accordingly, Solomon Villanueva was charged with two (2) separate crimes of rape, one which occurred "sometime" in September 1990," while the other, for the attack "on or about June 14, 1992." The two (2) cases were consolidated and tried jointly.

The accused denied the charges leveled against him and claimed they were trumped up by the relatives of his deceased wife to avenge the cruelty and neglect she supposedly suffered from him when she was still alive. He narrated that as a delivery truck driver then, he would normally leave their house at ten o'clock in the morning and return home past eleven o'clock in the evening. He rarely saw their daughter Lea as he came home from work late at night, dead-tired and sleepy. On 19 September 1990 and 14 June 1992 he got home already past eleven o'clock in the evening.

On 22 January 1993 the Regional Trial Court of Manila,^[5] disregarded the alibi of Solomon Villanueva, found him guilty of rape on two (2) counts, sentenced him in each to reclusion perpetua, and ordered him to indemnify his daughter Lea in the amount of P50,000.00 as moral damages in both cases.

Accused-appellant is now before us insisting on his innocence. *First*, he harps on Lea's failure to offer resistance considering that he was not armed with any weapon nor did he employ physical violence. He would thus doubt the allegation of Lea that she reported the incident to her grandparents because she could no longer take what he was doing to her. For, if this were true, he said, she should not have waited for two (2) years, and if she did not like what he was doing to her she should have immediately gone to her grandparents after the first or even the second incident. *Second*, accused-appellant quibbles over the testimony of Lea. He claims that her story that he was on top of her and having sex with her for 20 to 30 minutes is difficult to believe since [t]his is too much for a 12-year old girl to bear."^[6] He likewise submits that her testimony that her mother knew what he was supposedly doing to her and yet did not do anything is "incredible and against human nature and not in accord with common knowledge and experience of mankind."^[7]

The arguments are disgusting at the very least. The trial court found the testimony of Lea "categorical, positive and convincing."^[8] Hence we accord full faith and credence to her narration that she was ravished by her own father. We are convinced that the acts complained of indeed occurred and were perpetrated by