

THIRD DIVISION

[G.R. No. 116727, February 27, 1996]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FELIX ESQUILA, ACCUSED-APPELLANT.**

DECISION

MELO, J.:

Before us is the appeal of Felix Esquilla from the decision of Branch 21 of the Regional Trial Court of the 11th Judicial Region stationed in Bansalan, Davao del Sur, convicting him of the crime of rape and imposing on him the penalty of reclusion perpetua, and ordering him to indemnify the victim, Maribeth Esquilla, in the amount of P20,000.00 as moral damages.

Accused-appellant assails said judgment and ventilates his appeal on the general and catch-all argument that the court a quo erred in convicting him despite the absence of evidence required to prove his guilt beyond reasonable doubt.

Briefly, the facts, as presented by the prosecution and as given credence by the lower court, are as follows:

Private complainant, Maribeth Esquilla, having been born on February 14, 1978 was 13 years old at the time of the commission of the crime charged on October 15, 1991. She and her younger brother, Bencio, 8 years old, lived with their paternal grandparents (their parents having separated in 1987), accused-appellant Felix Esquilla and his wife, in Surigao del Sur. After their grandmother died, Maribeth and her brother Bencio were left under the sole care of their grandfather, herein accused-appellant who thereupon moved to Managa, Bansalan,

Davao del Sur, bringing with him Maribeth and Bencio. There, they lived in a nipa hut in a small farm and slept together on the floor, side by side.

On October 15, 1991, at about 12 o'clock midnight, Maribeth was suddenly awakened when she felt someone on top of her. She was surprised when she saw it was her grandfather, accused-appellant herein, and noticed she was naked, her hands and legs spread apart tied with a rope. She could not shout because her mouth was covered with a piece of cloth and a knife was pointed at her. She tried to free herself but was unsuccessful. All she could do was to ask, in smothered and stifled supplications, why accused-appellant was doing this to her. He did not heed her pleas. He then sexually abused her. Her younger brother Bencio who slept with her was awakened and witnessed the sexual assault on his sister. He cried but to no avail. After satisfying his lust, accused-appellant untied Maribeth's hands and feet, left the house but without first threatening his victim and her brother with death if they reveal the incident to anybody.

On the afternoon of the next day, Maribeth left the house and proceeded to the house of one named Emiliana whose help Maribeth sought, narrating her agonizing experience. Emiliana brought Maribeth to the police station at Bansalan to report the incident and there had her medically examined. Dr. Anabelle Yumang, Municipal Health Officer of Bansalan, examined Maribeth and thereafter submitted the following:

Findings:

- hymen with a healed complete laceration at 6:00 o'clock position corresponding to the face of a watch.
- hymen orifice admits a tube 1.5 cm. in diameter with ease.

and concluded that the subject's "physical virginity is lost."

Consequently, on March 6, 1992, a complaint for rape against Felix Esquilla was formally filed before the Regional Trial Court of Bansalan, Davao del Sur.

As for the defense, its version of the incident is as follows:

On October 15, 1991, the date of the commission of the alleged crime imputed, accused-appellant was allegedly in his farm in Pananag. Maribeth was in Bansalan, having left the house sometime on September 15, 1991, after accused-appellant had beaten and punished her for gallivanting. From the time Maribeth left their house on September 15, 1991, she never returned and accused-appellant never saw her. He saw her only for the first time in court during the first hearing of the case.

Corroborating accused-appellant's story, Teresita Velasquez declared that Maribeth was under her employ as a domestic helper in her house in Bansalan, Davao del Sur from September 7 to November 15, 1991. During the entire period of her employment, Maribeth never left the household. She added that Maribeth said that she ran away from the house of her "Lolo" with whom she had been staying. Velasquez also declared that at one time she saw an old man, later identified by Maribeth as her Lolo, on the road near her house. This man was calling Maribeth who, however, refused to talk to the man.

It is to be noted that the defense centers on denial, with accused-appellant arguing that the testimony of Maribeth is incredible.

Thus, accused-appellant avers that the trial court erred in convicting him because the testimony of the victim, Maribeth, is uncertain, contradictory, and filled with inconsistencies and material discrepancies sufficient to destroy her credibility. He argues that in her direct testimony, Maribeth declared that the crime happened on October 15, 1991 at 12 o'clock midnight (tsn., August 3, 1992, p. 7) while under cross-examination on August 3, 1992, she stated that she left accused-appellant's house on October 11, 1991 for Poblacion, Bansalan to look for work and stayed thereat for 1-1/2 months, from October 11, 1991 (tsn., ibid., pp. 28-29). Thereafter she returned to Pananag, Managa, Bansalan but she did not go to accused-