PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE BUISON Y PUNSALAN, ACCUSED-APPELLANT.

G.R. Nos. 128153-56. July 19, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

VICENTE BUISON Y PUNSALAN was charged before the trial court with four (4) counts of rape committed against his own daughter, ADELINA T. BUISON, and found guilty as charged. He was sentenced to reclusion perpetua for each rape and ordered to indemnify the offended party P50,000.00 for moral damages and to pay the costs.[1]

Adelina was still a toddler when her mother was abandoned by her father, the accused Vicente Buison, for another woman. Adelina's longing for fatherly affection was quenched when her long lost father finally visited her after an absence of more than ten (10) years. He promised to send her to school if she would go with him to General Santos City. In her excitement, she forgot to ask permission from her mother and grandfather with whom she was then staying in Talisay, Negros Occidental.

On 15 August 1991 at around 9:00 o'clock in the evening, three (3) months after the father-and-daughter reunion, something which Adelina never expected happened. She was sleeping on the floor of her father's shanty together with her two (2) minor stepsisters when she was awakened by the crushing weight of a person on top of her. When she opened her eyes she found herself naked with her father on top of her frantically trying to insert his penis into her vagina. Sensing his evil intention she repeatedly boxed him but her puny efforts failed to overcome his masculine strength. Forthwith he made a pumping movement while covering her mouth to prevent her from screaming. The sexual assault was consummated in about three (3) minutes. She remonstrated, "Why did (sic) you do this to me? I am your daughter." He simply shrugged and then released a devilish laugh as he remarked, "You are still a virgin." Adelina was so devastated she could only drown her sorrows in her own tears.

Early dawn of 16 August 1991 Adelina was sound asleep when again the accused removed her panty, bra and duster and mounted her once more. He mercilessly abused her against her will. At this juncture, she asked her father, "Why did (sic) you do this to me? I am your daughter." Having satiated his lust he simply ignored her entreaty. Now overcome by physical and emotional strain, she slept without putting back her clothes. But all these she kept to herself in the meanwhile for fear that the accused would carry out his threat to kill her if she revealed his sexual abuse to anybody.

The third rape incident happened at around 9:00 o'clock in the evening of the same day, 16 August 1991 when the accused undressed inside the room in front of his daughter who saw her father's penis dangling. She was so stunned she did not know what to do. He ravished her again, kissing her on the lips and on other parts of her body, finally culminating in the insertion of his penis into her organ. The fear, distrust and despair that pervaded her whole being that she would not dare report the outrage to anybody, not even to her mother or grandfather in Bacolod, since her father would pry into her letters. Neither could she seek refuge in her stepmother Mila for she

too could not be trusted, nor from her neighbors, nor the police for fear that the accused would learn about her betrayal and then harm her.

One day a glimmer of hope presented itself when she was asked by her father to accompany him to Davao City. She readily acceded as she planned to disclose to her uncle Rodrigo who was residing there what her father had been doing to her. On 25 October 1991, together with a truck helper, the accused and daughter Adelina left General Santos City in a cargo truck in a three (3)-vehicle convoy of Brian Freight Trucking where the accused was also employed as a driver. Some ten (10) to twenty (20) minutes after leaving the city, the accused pretended that he could not drive fast enough and suggested to the truck helper to transfer to another vehicle in the convoy. Apparently, this was a ploy to carry out his diabolical scheme. As soon as the truck helper left, the accused poked a knife at his hapless daughter and, as before, sexually abused her right inside the truck. After three (3) minutes of sexual assault the accused muttered, with some false air of regret, "You are no longer a virgin." He then told her that they would proceed to the house of his brother Rodrigo in Davao City but, strangely, they headed back instead to General Santos City.

When she could no longer bear the agony and the pangs of humiliation, she ran away from home and found solace in Fely Bartiana whom the accused had introduced to her earlier as his godmother in his wedding. Three (3) days after Adelina narrated her harrowing experience with her father to Fely, the latter brought her to the Department of Social Welfare and Development (DSWD) which helped her file the present cases.

Dr. Virginia Ramirez, the medico-legal officer who examined Adelina, testified at the trial that while no semen was found in the complainant's vagina there were scars at 8:00 o'clock and 5:00 o'clock positions which could have been caused by a male organ.[2]

Accused-appellant testified in his defense that he first met his daughter Adelina, after a long while, on 17 May 1991 when she was only fifteen (15) years old. He was then visiting his relatives in Victorias, Negros Occidental, when his mother met Adelina by chance and informed her of his presence in the area. In no time, Adelina went to his house and tearfully embraced him when they met. In the course of their reunion, Adelina learned that he was returning to Mindanao in a week's time and insisted in going with him. He suggested instead that she stayed with her uncle Rodrigo in Davao City because he was better off financially, but Adelina was persistent. In June 1991 he brought her with him to General Santos City.

Accused-appellant countered that the rape incidents that occurred at 9:00 o'clock in the evening of 15 August 1991 and dawn of the following day could not have possibly happened because on said dates he was on a trip to Davao City and returned to General Santos City at around 2:00 o'clock in the afternoon of 16 August 1991.

Although he was already at home in the evening of 16 August 1991, the time when the third rape was reportedly committed, he maintained that nothing unusual happened because his wife, three (3) children, and Adelina were all in the house with him.

As for the fourth rape that allegedly happened on 25 October 1991, he insisted that while it was true that he was on a midnight trip to Davao City, Adelina was left behind at home with his wife and three (3) children.

He posited that the filing of the rape charges was impelled by some ill feeling that the complainant harbored against him and his family. He recalled that at one time, when Adelina was being scolded for coming home late from school, she grumbled and told his wife: "You try to discipline me (when) you did not even provide a can of milk for me x x x x My grandfather who reared me up did not even discipline me, how much (sic) from (sic) you, I came here when I'm already grown up."[3]

Mila Buison, wife of the accused, testified that Adelina was welcomed in their home as a member of the family.

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In fact, she and her husband provided her everything that their children should have, including food and education. She likewise corroborated the testimony of the accused that in the evening of 15 August 1991 she was in their house with Adelina and the three (3) children, thereby contradicting the claim of the complainant that she (her stepmother) was in the hospital at that time with her youngest son. She also asserted that she was with her children and the complainant herself inside the house at the time when her husband allegedly abused the complainant on 16 August 1991 and 25 October 1991. Although she did not know what motivated Adelina to make these imputations to her husband, she could only surmise that the complainant resented their attempts at instilling discipline in her as was natural of parents. Often, Adelina would brusquely reject any form of paternal correction saying that they (she and the accused) did not have the right to discipline her because they did not bring her up.

In support of the defense, Bonnie Bantacalo, the truck helper of the accused, claimed that he was travelling with the accused on the night of 15 August 1991 on their way to Davao City. At 8:00 o'clock in the morning of the next day, they unloaded their cement cargo after which they left Davao City and headed back to General Santos City, arriving there at 2:00 o'clock in the afternoon. On 25 October 1991 the same thing happened as he and the accused delivered their cargo of cement, after which they left Davao City for General Santos City and reached their destination at 2:00 o'clock in the afternoon.

In convicting accused-appellant Vicente Buison, the trial court gave full credence to the testimony of the private complainant and rejected the defense of alibi -[4]

> Careful scrutiny of the evidence for the prosecution yielded the conclusion that the complainant recounted what exactly happened. She was ravished by her own father barely three months after she started living with him and her stepmother x x x x
>
> The defense of alibi and denial cannot prevail over the very positive and veracious declarations of the complainant. In fact, the father of the accused, his wife and elder brother attempted to mollify the complainant by either offering to pay a certain amount, or appeal to her sense of filiation to save the accused from the clutches of the law. There is no basis for the court to doubt the truthfulness of the facts narrated by the complainant. There is no reason also to entertain the theory of the accused that the charges against him were motivated by revenge. What was ironic in these cases is that the accused who was supposed to be the foremost protector of the chastity and dignity of his own daughter became its blatant and despicable violator.

Accused-appellant now comes to us on appeal assigning as lone error the finding by the trial court that his guilt had been proved beyond reasonable doubt.

Accused-appellant argues in his Brief that private complainant's deep-seated resentment against him stems from his failure to extend financial and moral support to her. In short, the filing of the complaint against him was but a mere fabrication conjured by private complainant to seek revenge against him for the pain and agony of having been abandoned when she was still a child.

At the surface, accused-appellant's argument seems plausible, but a more thorough review of the testimonies of the contending parties will reveal some serious, albeit unnoticeable, flaws in his line of defense. As shown by the following exchange, private complainant expressed a sincere desire to meet her father and renew their father-daughter relationship, thus:[5]

> Fiscal Oco: When you met him (referring to accused-appellant) and learned that he was your father how did you feel?
>
> A:

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> I was so very happy because I saw my father after ten years but when I arrived here in General Santos "Gipahimuslan lang niya ako." (He took advantage of me)

And then again on cross-examination[6]-

> Court: By the way, where was it that you were fetched by your father, Vicente Buison, was it in Bacolod or Talisay, Negros Occidental?
>
> A:
>
> It was in Victorias that I met Vicente. I was happy to meet him as my father and I agreed to go with him. During my vacation that I met Vicente I was happy.

These declarations by private complainant clearly manifest that upon meeting her father she did not exhibit any hatred or resentment against the man who had forsaken her. In fact, she declared during trial that she embraced accused-appellant upon seeing him which fact was affirmed by accused-appellant himself. Adelina was so eager to go with him to General Santos City that she forgot to ask permission from her mother and grandfather. Her actuations simply disprove the claim by accused-appellant that the filing of the instant charges was but the realization of complainant's burning desire to destroy him and his family for allegedly abandoning her. The testimony of Mila that she and her husband treated Adelina as one of their children, and that they always endeavored to provide her with all her necessities despite their humble means, effectively weakened the veracity of accused-appellant's imputation. For, the truth of the matter is that private complainant's seething anger only sprung from her having been defiled by the very man who shattered her dreams of enjoying for life the warmth of his paternal love.

Even conceding that she indeed resented accused-appellant and his family, this alone would not exculpate him. Whatever her prejudices and biases against her father would not obliterate the presence of the elements of the crime as long as they have been sufficiently established. In People v. Gagto[7] we held that "not a few accused in rape cases have attributed the charges brought against them to family feuds, resentment, or revenge. But such alleged motives have never swayed the court from lending full credence to the testimony of the complainant who remained steadfast throughout her direct and cross examinations, especially a minor in this case."

Accused-appellant states that the testimony of the complainant is replete with scenarios that are contrary to human experience. For him it is improbable that the complainant would still go to Davao City with him after he had supposedly raped her thrice in the past.

We are not convinced. Adelina satisfactorily explained her seeming rashness in exposing herself to further abuse when she went with her father to Davao City. She revealed in open court that she agreed to go with accused-appellant after having been assured that there would be other passengers in the truck. In going to Davao City, she saw a chance for escape because she intended to see her uncle Rodrigo whom she thought would save her. Unfortunately for Adelina, the mind of her assailant was far more devious and cunning than her naivete and innocence, for accused-appellant did not give her the opportunity to contact her uncle Rodrigo.

Accused-appellant cannot also comprehend why Adelina did not leave the house after the alleged commission of the three (3) counts of rape. This simply shows the extent of accused-appellant's moral ascendancy over his victim. He was her only blood relation in the area such that complainant had to summon every ounce of courage to defy her father's authority. The victim, a minor of fifteen (15) summers and unfamiliar with the community, was totally at the mercy of the man whom she called "father."

These and other instances that seemingly defy human experience are way too insignificant and inconsequential which, far from detracting from the veracity of Adelina's testimony, in fact even tended to bolster it.

With respect to the testimonies of the wife, the brother and the friend of accused-appellant, these were all expectedly biased in his favor. Owing to their relationship to him, their natural tendency was to testify for him and extricate him from the tightening noose of complainant's damning testimony. Moreover, their statements cannot prevail over the positive identification and categorical accusation made by the complainant.

We find accused-appellant guilty beyond reasonable doubt of four (4) counts of rape and the penalty of reclusion perpetua for each count as imposed by the trial court is proper, considering that the crimes were committed before the aegis of RA 7659.[8] However, in addition to the moral damages of P50,000.00 for each count, Adelina T. Buison must be awarded an additional amount of P50,000.00 as civil indemnity for each count in accordance with prevailing jurisprudence.

WHEREFORE, the assailed Decision of the lower court convicting accused-appellant VICENTE BUISON Y PUNSALAN of four (4) counts of rape and imposing on him the penalty of reclusion perpetua for each count is AFFIRMED with the MODIFICATION that in addition to the moral damages of P50,000.00 for each count, accused-appellant is further ordered to pay complainant ADELINA BUISON Y TRIBACO P50,000.00 as civil indemnity for each count. Costs against accused-appellant.

SO ORDERED.

Mendoza, Buena, and De Leon, Jr., JJ., concur.
Quisumbing, J., on official leave.

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[1] Decision penned by Judge Abednego O. Adre, RTC-Br. 11, General Santos City.

[2] TSN, 22 February 1993, p. 10.

[3] TSN, 20 February 1995, pp. 188-192, 196 and 199-200.

[4] Rollo, p. 34.

[5] TSN, 23 February 1993, p. 36.

[6] TSN, 24 February 1993, p. 19.

[7] G.R. No. 113345, 9 February 1996, 253 SCRA 455.

[8] RA 7659 took effect on 30 December 1993. See People v. Lutao, G.R. No. 107798, 16 November 1995, 250 SCRA 45.

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