

THIRD DIVISION

[G.R. No. 138936, January 30, 2001]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO SOLIS Y
SEGOVIA, APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

Circumstantial evidence is considered sufficient only when the facts from which the inferences are derived are themselves duly proven. Well-established is the rule that an inference cannot be drawn from another inference.

The Case

Rolando Solis y Segovia appeals the February 22, 1999 Decision^[1] of the Regional Trial Court of Bacolod City (Branch 49), in Criminal Case No. 9954, finding him guilty of the special complex crime of rape with homicide and sentencing him to *reclusion perpetua*.

In an Information dated February 4, 1991, Assistant City Prosecutor Eduardo B. Esquilla charged appellant as follows:^[2]

"That on or about the 20th day of September, 1990, in the City of Bacolod, Philippines, the said accused, did, then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and stab Lilibeth Balbuena, a minor, 8 years of age, and a retarded child thereby inflicting upon her serious and mortal wounds, to wit:

"Wound, stabbed, 7.0 cm. in length, chest, anterior, level of the 6th and 7th intracostal space, extending from left parasternal line to left mid-clavicular line medial extremity c[o]ntused and lateral extremity sharp, fracturing sternum and the 6th and 7th ribs thereat, to enter thoracic cavity, perforating ventricle of the heart and lacerating inferior lob[e] of left lung.

which were the direct and immediate cause of her death and by reason or on the occasion thereof enabled the said accused to then and there willfully, unlawfully and feloniously succeeded in lying with and having carnal knowledge of the said Lilibeth Balbuena against her will and consent.

"That apart from the aforementioned aggravating circumstances, attend[ant to] the commission of the crime: That it was committed with abuse of superior strength and that there was cruelty by deliberately and inhumanly augmenting the suffering of the victim."

With the assistance of Counsel Romeo Subaldo, appellant pleaded not guilty when arraigned on September 27, 1994.^[3] After trial, the Regional Trial Court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, finding the accused Rolando Solis y Segovia [g]uilty beyond reasonable doubt of the [s]pecial [c]omplex [c]rime of [r]ape with [h]omicide punishable by death under Art. 335 of the Revised Penal Code but considering that death could not be imposed by reason of the governing law at the time of the crime which automatically reduced the death penalty to [r]eclusion [p]erpetua, the Court hereby sentences the said accused to suffer the penalty of [r]eclusion [p]erpetua with all the accessories provided by law and to indemnify the heirs of Lilibeth Balbuena [in] the amount of P75,000.00 as compensatory damages, P100,000.00 as moral damages and another P100,000.00 as exemplary damages and to pay the cost.

"SO ORDERED."

Hence this appeal.^[4]

The Facts **Version of the Prosecution**

The prosecution's version of the facts is summarized by the Office of the Solicitor General, as follows:^[5]

"Lilibeth Balbuena, an eight (8) year old child at the time of the incident, was a retarded child. She could hardly talk and could communicate through hand signals only. She was the second of five (5) children of the couple, Sabiniano Balbuena and Lucia Balbuena (TSN, pp. 3-4, May 23, 1995).

"At about 9:00 in the morning of September 20, 1990, Sabiniano Balbuena and his wife, Lucia Balbuena, arrived home at Arabay I, Bacolod City after buying food and other household items from the market. Lilibeth and her younger sister were inside the house. They gave bread to Lilibeth and her sister. While the couple were cooking breakfast, they noticed a man about ten (10) meters away, later identified as appellant Rolando Solis, wearing white T-shirt and denim pants, cutting banana leaves at the back of their house. After Sabiniano finished cooking, he called for Lilibeth. Sabiniano received no answer. Sabiniano went around the house looking for Lilibeth. Unable to find her, Sabiniano proceeded to the adjacent **purok** searching for Lilibeth (TSN, pp. 7-11, May 23, 1995).

"When he came back, Sabiniano did not see appellant anymore. After searching for about half an hour, Sabiniano went home. Later, Sabiniano continued his search for Lilibeth. At this juncture, Sabiniano again saw appellant cutting banana leaves. Sabiniano inquired from appellant if he had seen a child. Appellant answered that he saw a child wearing black shirt and white pants cross a bridge leading to another **purok**. Sabiniano crossed the bridge and continued his search for Lilibeth. After spending

half an hour without any result, Sabiniano returned home. Sabiniano saw appellant near his house still cutting banana leaves. Again he inquired from him if he had seen Lilibeth. As before, appellant answered that he saw the child crossing the bridge. Sabiniano asked a third time but the answer was the same. Sabiniano once more crossed the bridge and looked for Lilibeth. Unable to find Lilibeth, Sabiniano returned home. Momentarily. Sabiniano saw appellant running away, his pants wet, and carrying a small bundle of banana leaves (TSN, pp. 11-15, May 23, 1995).

"At about 10 in the morning of September 20, 1990, Zebred Santillan went home from work. As he was passing the house of the Balbuenas, he met appellant along the road leading to the highway. Zebred noticed that appellant was seemingly in a hurry. He was wet and was carrying banana leaves. Zebred greeted appellant but appellant simply ignored him (TSN, pp. 3-6, July 27, 1995).

"Sabiniano became suspicious of appellant. He had sought the help of his neighbors in looking for Lilibeth (TSN, p. 15, May 23, 1995). Rolando Oliveros, a neighbor, was among those who volunteered to look for Lilibeth. He went inside the banana grove, located a little distance from his house. The[re] he saw signs of trampled grasses. Rolando followed the trail leading towards a ditch where he saw newly cut banana leaves. When Rolando was about to turn back, his eyes caught a glimpse of the exposed feet of a child protruding under a clump of banana leaves. Without much ado, Rolando dashed back to his house and informed his neighbors about his finding (TSN, pp. 6-9, February 16, 1996).

"Together with Rolando Oliveros, Sabiniano and other neighbors of his repaired to the place pointed to by Rolando. There, Sabiniano was shocked to see [his] daughter Lilibeth covered with banana leaves about 100 meters away from his house. Sabiniano called the police and a doctor (TSN, pp. 15-17, May 23, 1995).

"A police team, headed by PO3 Homer G. Vargas, of the Bacolod City PNP, responded. The police team was accompanied by Dr. Romeo Gellada, medico legal officer, PNP, Bacolod City. They removed the banana leaves and the slashed and naked body of Lilibeth was exposed. Lilibeth's black calico shirt and pajamas were laid beside her body. The naked body of Lilibeth lay on [its] back (TSN, pp. 17-22, May 23, 1995; TSN, pp. 11-12, February 16, 1996).

"Dr. Gellada examined the cadaver of Lilibeth. He found the chest of Lilibeth slashed. Dr. Gellada told the group that Lilibeth was raped (TSN, p. 12, February 16, 1996; TSN, p. 9, June 7, 1996). Dr. Gellada conducted an autopsy on the cadaver of the victim (TSN, pp. 5-14, April 11, 1997). The Autopsy Report (Exh. `D', p. 333, Record) shows the following findings:

` PHYSICAL FINDINGS:

1. Wound, stabbed 7.0 cm. in length, chest, anterior, level of the 6th and 7th intracostal space, extending from left parasternal line to left mid-clavicular line medial extremity contused and lateral extremity sharp, fracturing sternum and the 6th and 7th ribs thereat, to enter thoracic cavity, perforating ventricle of the heart and lacerating inferior lobe of left lung.

GENITAL FINDINGS:

Pubic hair absent, labia majora and labia minora markedly swollen and congested. Hymen with fresh bleeding lacerated at 4, 5, 6, 7, 8 and 9 o'clock. Fourchette lacerated, cervical smear positive for spermatozoa.

CAUSE OF DEATH: Shock and Hemorrhage due [to stab] Wound."

"On the basis of his autopsy, Dr. Gellada found one (1) stab wound located at the left anterior chest of the victim which penetrated the chest cavity and lacerated the left anterior lung. Upon genital examination, Dr. Gellada found that the 'labia majora and labia minora were swollen and congested, hymen with fresh bleeding lacerated at 4, 5, 6, 7, 8 and 9 o'clock, the cervical smear was positive for spermatozoa'. Dr. Gellada concluded that the victim was raped (TSN, pp. 7-8, April 11, 1997).

"When informed that appellant was the only person last seen in the area, the police team proceeded to the house of appellant. When they arrived, appellant's parents told the police that appellant had left to sell banana leaves in the market. His parents, however, voluntarily surrendered a stainless knife which was left by their son in the house after cutting banana leaves. PO3 Vargas, who received the knife, found a sticky substance akin to blood stain. PO3 Vargas informed appellant's parents that their son was a suspect in the rape with homicide case that happened in Arabay I (TSN, pp. 8-16, June 7, 1996).

"Appellant eluded arrest and had remained at large for about four (4) years. The arms of the law finally caught up with him on July 18, 1994 (TSN. pp. 16-17, June 7, 1996; TSN, p. 16, July 16, 1997)."

Version of the Defense

Appellant, on the other hand, presented the following version of the facts:^[6]

"On September 20, 1990 at around 7:00 a.m., [appellant] went to the house of Benjamin Oliveros to buy banana leaves because there was an order from a certain Fidel of Homesite. At around 8:00 a.m. he went out from the banana plantation and went to Benjamin's house to pay for the banana leaves. Since Benjamin was not around, he gave the amount of P10.00 to the daughter of Benjamin. He arrived at Homesite at about 9:30 a.m. to deliver the banana leaves to Fidel, after which, he went home at about 10:00 a.m. Upon arrival, his sister asked him to buy fish and rice at Burgos Market. He arrived at the market at around 10:30

a.m. and arrived at his residence at about 11:20 a.m. After taking lunch at about 12:00 p.m., he heard over the radio that he was a suspect in a certain killing. He went immediately to the Barangay Captain who advised him to stay away because it is very hard to be a suspect. The Barangay Captain was later shot dead at Burgos Market.

"[At] about 10:00 a.m. on the day of the incident, [Lanie Pagdatu] saw accused [pass] by going towards the direction of their house. She was sure that it was the accused because they were neighbors since childhood and she was also sure that it was 10:00 a.m. because the radiodrama series "Provincial Jail" ha[d] already started as it always start[ed] at 10:00 a.m. everyday.

"Lolita Solis, the mother of the accused, used to go with the accused together with another child to gather banana leaves. But on September 20, 1990 the accused went alone because she ha[d] work at San Miguel Corporation. Their customer, Fidel, ordered P10.00 worth of banana leaves.

"When Lolita Solis went home from work at around 11:30 a.m., she saw the accused chopping wood. At around 12:30 after finishing lunch, she noticed that there were policemen. They were looking for her son. She told them that her son was not around. The policemen asked for the knife that the accused used in gathering banana leaves and she gave it to them. When she gave it to them the knife was then clean and it had no handle. When she saw the accused at around 5:00 p.m. she inquired from him where he went. The accused told her that he went to Barangay Captain Basilio Flor and asked for advice. She also talked with Barangay Captain Basilio and the latter advised her that if her son didn't commit the crime, they must not surrender him because he might be manhandled and salvaged by the police. Following the advice, they sent their son to Iloilo for two weeks and after which he returned to their house and worked in a reclamation area. He [went] home every night after work."

Ruling of the Trial Court

The trial court gave credence to the testimonies of the prosecution witnesses. Although there was no eyewitness account, it believed that "the combination of all [the] circumstances point[s] unerringly to the accused, to the exclusion of all other persons, as the one responsible for the rape-slay of Lilibeth Balbuena."

Assignment of Errors

In his Brief, appellant imputes these two errors to the trial court:

"I

The trial court erred in relying mainly on circumstantial evidences presented by the prosecution as basis for the conviction of the accused.

"II