

EN BANC

[G.R. No. 117683, January 16, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TEOFILO Taneo, ACCUSED APPELLANT.**

DECISION

PER CURIAM:

Appellant Teofilo Taneo was charged^[1] and convicted of the crime rape and accordingly sentenced by the Regional Trial Court, Branch 5 of the Cebu City^[2] to suffer "the penalty of death" and "to indemnify the offended woman, Mencina Taneo, the amount of P 50,000.00 as moral damages and the amount of P 25,000.00 as exemplary damages, as a deterrent to other fathers from sexually molesting his own daughters; and to pay the costs."^[3] On automatic review, appellant assigns as errors the following:

"I

"THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESS MENCINA Taneo WHICH IS HIGHLY INCREDIBLE AND CONTRADICTORY.

"II

"THE TRIAL COURT GRAVELY ERRED IN NOT APPRECIATING IN EVIDENCE TH MEDICAL FINDINGS OF DRA. GEMMA MACACHOR AS CONDUCTED ON THE PERSON ON HER PRIVATE COMPLAINANT MENCINA Taneo AND IN INCORRECTLY ADOPTING ITS OWN BIASED INTERPRETATION OF THE PHYSICAL EVIDENCE ON RECORD WHICH CLEARLY IS BEYOND ITS ADJUDICATIVE POWER TO DO SO.

"III

"THE TRIAL COURT GRAVELY ERRED IN NOT GIVING CREDENCE TO THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT AND IN UNFAVORABLY PRESUMING AGAINST THE ACCUSED HIS FAILURE TO PRESENT AS DEFENSE-WITNESS ONE LETICIA MANGUBAT THUS SHIFTING THE BURDEN OF PROOF ONHTDEFENSE WHICH IS CONTRARY TO THE RULES OF PROCEDURE.

"IV

"THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."^[4]

Aptly stated by the trial court are the following fact with corresponding page reference to the stenographic notes and exhibits supplied by the Office of the Solicitor General which we have verified to be duly supported by the records:

"On May 23, 1994, Mencina Taneo, a barrio lass, with physical virginity, was with her parents and three (3) younger sisters in their house at Sitio Bihang, Bongoyan, Borbon Cebu. She was then below 18 years of age, having been born on June 6, 1976 (p. 3 TSN, July 25, 1994). Her mother had just recovered from a fever (p. 17, supra). Despite the condition of her mother, her father, Teofilo Taneo, who just arrived from his carpentry work in Cebu City, insisted that her mother get the sack of corn grits from a store (pp. 5-6, TSN, Aug. 9, 1994) about one kilometer away from their house (p. 4, tsn, July 25, 1994). Her father used to fetch and bring the sacks of corn grits for their consumption, but on that day, he insisted and prevailed upon his wife to get the sack of corn grits (p. 22, supra).

"After lunch, about 3:00 o'clock in the afternoon, Mencina's mother to avoid further altercation with her husband, went to the store, accompanied by her other daughter Ginda, to get the corn grits. But before her mother left their house, she instructed Mencina to look after her infant sister (pp. 4-6 supra). Together with Mencina in the house after her mother left that afternoon of May 23, 1994 were her father Teofilo Taneo, her sisters Aida (seven years old), Aiza (five years old), and Dyna (the infant). At that time, Mencina's eldest brother Leonito, served as a conductor of the passenger jeepney owned by Lorenzo Suson. Another brother Rico, was cleaning his fram in the land of Boy Franco, while her younger sister, Emma, was also in the farm of Boy Franco (pp 5-6, supra).

"Mencina watched her sister and put her to sleep on a hammock. When her baby sister was already asleep, she also went to sleep as her wont after lunch (p. 5 supra). While she was asleep, her two young sisters were sent away by her father Teofilo Taneo to the farm so he could be alone with her (p.1 TSN, July 25, 1994). This she learned later (p. 21, supra). She was awakened by the pain in her genetalia and when she opened her eyes, she saw her father Teofilo Taneo already naked from the waist down and on top of her. She also noticed that the cycling pants and black panty she wore before she went to sleep were already removed, and leaving her half-naked. Her father kept on inserting his finger into her vagina; his left arm pinned her down while he was on top of her. She tried to free herself, but to no avail as persisted in his lustful intention and overpowered her – threatening her with a bolo and told her not to shout (pp. 7-9, supra).

"To her pleas of mercy, her father Teofilo said that he would rather be the first to taste her virginity than her boyfriend, as he was the one who raised her to womanhood. After removing his finger, her father inserted his penis to her vagina (p. 8 supra) penetrating it up to the labia minora. Her father eventually succeeded in deflowering her (p. 6 TSN, July 27, 1994).

She did not notice any blood or bloodstains in her organ when she wiped

herself dry. It could be because her father after raping her, douched her organ with water (p. 8, supra).

"She noticed her cycling pants (Exh. "A") and her black panty (Exh. "B") thrown at a corner of their house (p. 7, TSN, July 28, 1994). After her father succeeded in raping her, she kept silent because he made the threat to kill her mother first, and she the next, if she will report the incident (P. 10, supra). She remained in the house and continued to watch her younger sister (p. 18, supra). Then her father left the house around 4:00 o'clock in the afternoon, to follow her mother to the store (p. 9, TSN, Aug. 9, 1994).

"Mencina's mother arrived home at 6:00 o'clock in the evening of the day of the incident but he did not reveal to her what transpired between her and her father (p. 10, TSN, July 25, 1994). The next day (May 24, 1994), she looked for means to go to her aunt and made the excuse of fetching water from a well. Instead, she went directly to her aunt's house and there she tearfully revealed to her aunt, Paciencia Taneo – who resides also in Sitio Bihang, Borbon, Cebu, about half a kilometer from the house of Teofilo Taneo (pp. 10-11, supra) – that she was raped by her own father and requested her aunt to accompany her to the poblacion in order to report to the police the incident (p. 10 TSN, July 27, 1994). At this juncture, Teofilo Taneo arrived and asked Pacencia Taneo why the slippers of Mencina was there (p. 11 supra). Upon seeing her daughter, he ordered her to go down. Teofilo Taneo then brought his daughter home after maltreating her (p. 11, TSN, July 25, 1994).

"Paciencia Taneo reported to a passing policeman, Expedito Urot, the incident reported to her earlier by Mencina Taneo (p. 11, TSN, July 27, 1994).

"Meanwhile, in the house of Teofilo Taneo, the latter continued maltreating his daughter. With bolo in his hand, he told Mencina that it is better to kill her if she would report the incident to the authorities. He told her not to leave the house pp. 11-12, TSN, July 25, 1994).

"Later, Borbon policeman arrived who disarmed her father who was holding a bolo, and arrested him. Her father was brought to the Borbon Police Station where he was investigated and detained. She was also brought to the police station in a separate vehicle (p. 4, TSN, July 28, 1994).

"On May 24, 1994, Mencina was sent to the Danao General Hospital in Danao City accompanied by SPO3 Expedito Urot (p. 5, supra). There she was examined briefly by Dr. Gemma T. Macachor. She felt pain when her private parts were examined and saw extracted from it a whitish substance (pp. 13-14, TSN, July 24, 1994). She went home and executed an affidavit (Exh. "C", Exh. "C-translation") and signed a complaint (Exh. "D") on May 25, 1994 – two days after the date of the incident. She was asked searching questions by Judge Perla C. Vilo, Judge of the 5th Municipal Circuit Court of Borbon-Tabogon, Cebu (Exh. "E"; pp. 14-16, supra).

"After the arraignment of her father Teofilo Taneo before this Court, she went home to her town in Borbon, Cebu, to deliver a subpoena to the police station thereat, to be served on SPO3 Expedito Urot of the Borbon Police Force. Later, she went home in Bihang, Borbon, Cebu, because her father was already detained, and there, her mother pleaded to her to pardon her father because the medical certificate issued after her examination did not show that she was raped. That her father will be freed because the doctor in Danao General Hospital was paid by Engracio Urot, brother-in-law of her father (p. 2-3 TSN, July 27, 1994).

"She stood pat in not forgiving her father, who also pleaded for forgiveness. She would rather choose to die than to pardon her father who ravished his own daughter. Besides, she fears that the same fate might befall on her younger sisters (pp. 5-6 supra).

"She felt very sad and could hardly sleep because of what her father did to her and leave it to the Court to award damages that she may be entitled to (supra)."^[5]

Now to dispose of the assigned errors which appellant jointly discusses in his brief.

In his first assignment of error, appellant insist that private complainant's allegations are "highly improbable", "implausible", and "utterly ridiculous", hence unworthy of belief. Thus:

"She insists that during the sexual act, the right hand of her father had been used by him to manipulate his sex organ on her vagina. His left hand was allegedly used to pin her down in such a way that she could not anymore struggle against him. At the same instance, she also insists that her said attacker armed himself with a bolo which was invariably used to intimidate her into submission. Considering her narration, human conduct dictates that this factual situation is highly improbable. Face value, it is even implausible, if not utterly ridiculous. For how could the accused-appellant have been able to pin her down with his left hand if at the same time he was also armed with the bladed weapon? Obviously, he could not have held the bladed weapon in his right hand as it was purportedly used in the sexual act. Necessarily, therefore, the bladed weapon must have been on his left hand allegedly to be used on the complainant were he fail his carnal advances. Thus, unless it be shown that the accused appellant was such an adroit purveyor of his skills and sexual intimidation, we would opt to believe that the private complainant had altogether materially exaggerated on her testimony of the incident."^[6]

Appellant's argument is not persuasive. His assertion is a dismal attempt to distort private complainant's narration. For clarity, we quote hereunder the material testimony of private complainant supplying the portions which appellant omitted in his brief, thus:

"COURT: (TO WITNESS)

Your testimony may involve the revelation (sic)

of facts which may embarrass you and the accused, do you want the public to be excluded in the trial in (sic) this case?

A It's alright, I want the trial be publicly done.

COURT: (TO FISCAL BERCILES)

Alright, offer and cite the purpose

FISCAL BERCILES:

The purpose of this witness is to prove the fact that she was raped by her own father Teofilo Taneo on May 23, 1994, at 3:00 p.m. at their house situated at sitio Bihang, Bongoyan, Borbon, Cebu and the attendance (sic) circumstances thereto.

May it please this Honorable Court.

COURT:

Fiscal may proceed."

xxx xxx xxx

"FISCAL BERCILES:

Q Could you tell the Honorable Court if there was unusual incident that happened during the time you stated before this court that you were slept after your younger sister went to sleep at that precise moment?

A Yes, ma'am.

Q Could you tell the court what was the unusual incident?

A Yes, ma'am

Q Please tell the court what happened?

A While I was sleeping, I was awakened by the pains and after that I noticed that my father was already on top of me and inserting his finger into my vagina.