

SECOND DIVISION

[G.R. No. 109763, February 24, 1998]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CANDELARIO IBALANG ALIAS "TATA," ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision of the Regional Trial Court of Tagum, Davao, Branch 1, finding the accused-appellant Candelario Ibalang, alias "Tata," guilty of rape committed on June 23 and 24, 1990 against his stepdaughter, Leizel Morales, and sentencing him to two (2) counts of *reclusion perpetua* with all the accessory penalties of the law and to pay the offended party ₱100,000 in moral damages for the two crimes.

The facts are as follows:

Accused-appellant Candelario Ibalang is the second husband of Rosita Loyong. Complainant Leizel Morales is Rosita's daughter by her previous marriage to Victor Morales (now deceased). Prior to the incident in question, Leizel lived in the same house with accused-appellant in Araibo, Pantukan in Davao del Norte.

Leizel Morales was examined at the Provincial Hospital of Davao Oriental on June 26, 1990, after she had allegedly been raped by accused-appellant and found to have suffered the following injuries:^[1]

DIAGNOSIS : HYMENAL LACERATION AT THE 7 O'CLOCK POSITION
: HYPEREMIA AT THE INNER SURFACE OF THE LABIA
MINORA, RIGHT SIDE (ADJACENT TO THE LACERATION)

On July 4, 1990, she gave a sworn statement at the Pantukan Police Station, narrating how she had been raped by her stepfather, Candelario Ibalang, on June 23 and 24, 1990 inside their house in Araibo, Pantukan, Davao Del Norte. The pertinent portions of her affidavit state:^[2]

04. Q.- When and where did this incident happen?

A.- Last June 23, 1990 at around 12:00 midnight inside our house in Araibo, Pantukan, Davao and my said stepfather abused me again last June 24, 1990 at around 8:00 o'clock in the morning in the same place.

05. Q.- Will you please narrate in brief how the incident happen?

A.- I was awakened when my said stepfather suddenly pulled my shoulder then my said stepfather placed himself on top of me which made me afraid and before I could shout due to fear, my said stepfather was able to cover my mouth with his hand at that juncture, he (stepfather) while on top of me pulled down and

[took] off his short pant[s] and brief and during that time, I noticed that my panty has been taken off already and I fully believed that my said stepfather took off my panty while I was sleeping.

06. Q. What happened next if there was any?

A.- My said stepfather h[e]ld his penis then pushed it on my vagina and he forced his penis to insert inside my vagina several times which made me cry and requested my said stepfather to stop due to great pain.

07. Q.- How did you request your stepfather to stop?

A.- I requested him by saying, "AYAW PA, AYAW LAGI PA KAY SAKIT KAAYO", and at the same time I pushed him away from me.

08. Q.- What did your stepfather do when you requested him to stop?

A.- Instead, my said stepfather continued pushing his penis on my vagina until he succeeded and inserted it inside my vagina then he pushed and pulled it several times and later, I noticed something liquid [came] out from his penis then he stood up and [wore] his brief[s] and short pant[s] and lied beside me and during that time, I saw that my vagina is bleeding and still painful.

09. Q.- What happened more if there was any?

A.- On June 24, 1990 at around 8:00 o'clock in the morning, while I was working in the kitchen, my said stepfather called me inside the room and instructed me to look for his short pant[s] which made me [obey] and [enter] inside the room but when I was already inside the room my said stepfather embraced me then pulled down and [took] off my panty which made me cry sensing his bad intention then I heard him [warn] me by saying, "AYAW PAGSABA HA" and at the same time pushed me to lie down on the floor and again he succeeded in having sexual intercourse with me which is against my will, and when my said stepfather was satisfied, he left our house and proceeded to our farm uphill.

Thereafter, two (2) criminal cases for rape were filed against accused-appellant upon complaint of Leizel Morales in the Regional Trial Court of Tagum, Davao.^[3] Accused-appellant Candelario Ibalang pleaded not guilty to the charges.^[4] The two cases were then jointly heard.

The prosecution presented complainant Leizel Morales who testified that her father was already dead and that, prior to the incident, she lived in the house of her stepfather Candelario Ibalang along with her siblings and their mother Rosita.^[5] She told the court that on the night of June 23, 1990, while she and her siblings were asleep and their mother Rosita was in Lupon, accused-appellant Candelario Ibalang succeeded in raping her by removing her panties and inserting his penis into her vagina.^[6] She tried to resist but accused-appellant was stronger than she. As a result, her vagina bled.^[7]

Leizel further testified that the following morning, on June 24, 1990, accused-appellant asked her other brothers and sisters to take a bath,^[8] and that while she was washing the dishes, she was ordered by accused-appellant to get his short pants.^[9] As she was about to get the short pants, accused-appellant grabbed her and embraced her.^[10]

Leizel told him, “Ayaw, Pa!” (“Pa, don’t”), but accused-appellant did not heed her plea. Instead he proceeded to remove her panties and made her lie down on the floor.^[11] He then placed himself on top of her and inserted his penis into her vagina.^[12] She resisted, at the same time pleading, “Please don’t because it is painful.”^[13] But accused-appellant only ordered her to keep quiet.^[14]

After that, she went to her aunt Baby Morales and reported the incident.^[15] She was accompanied to the office of the barangay captain and later to the house of her uncle Remegio Morales in Lupon.^[16] Together the three proceeded to the provincial hospital in Mati, where she was examined by a physician.^[17]

On cross-examination, Leizel reiterated her claim that accused-appellant had raped her on June 23 and 24, 1990. She said that she and her siblings had been sent to school by accused-appellant and that prior to the incident, she did not notice any misconduct or misbehavior on the part of her stepfather.^[18]

The complainant’s testimony was corroborated in material points by the testimonies of her uncle Remegio Morales^[19] and her aunt Floresfina Morales-Toong.^[20]

Dr. Agnes Quibod, the physician who examined Leizel Morales on June 26, 1990, testified that Leizel Morales was accompanied by her aunt to the hospital;^[21] that she found a “hymenal laceration at the 7 o’clock position and hyperemia at the inner surface of the labia minora right side that is adjacent to the laceration;”^[22] and that the laceration was still fresh and was about two to three days old.^[23]

On cross-examination, Dr. Quibod said that Leizel had told her that she was twice raped, first, on June 23, 1990, at 8 o’clock in the evening, and again, on June 24, 1990, at 12 o’clock midnight.^[24] Leizel told her that accused-appellant had mashed her private part (“Gihilabtan ang iyang puwerta”) and threatened her.^[25]

Accused-appellant, on the other hand, denied the accusation and testified that on June 22, 1990, Leizel Morales left their house after asking permission from her mother, Rosita, to go to the house of her aunt, Baby Morales.^[26] He said that he first came to know about the alleged rape only after he was arrested and brought to the office of the barangay captain where he was accused of the crime.^[27] He said he told his accusers that he was not so depraved as to rape his stepdaughter and asked that the girl be examined by a doctor.^[28] He said he did not know whether Leizel was examined because his wife was not able to accompany his stepdaughter to the doctor and he was not shown any medical certificate.^[29] He added that his wife did not want to file the case against him because she knew that the accusation was false.^[30]

On cross-examination, accused-appellant reiterated his testimony during the direct examination and claimed that he and Rosita had been married according to the rites of the Iglesia ni Kristo^[31] and that Leizel was not nine years old, but eight years old.^[32]

The defense intended to present Leizel’s mother, Rosita, as witness, but she left accused-appellant during the trial.^[33] The defense presented instead accused-appellant’s two “brothers in faith,” Iglesia ni Kristo members Eduardo Ibarra and Juanito Saren, who testified as to the good moral character of accused-appellant.

Eduardo Ibarra testified that he had been a resident of Araibo, Pantukan since 1975.^[34] He knew accused-appellant Candelario Ibalang as well as Rosita's former husband, Victor. During their marriage, Rosita and Victor acquired a Honda motorcycle and SSS benefits, which after Victor's death, were enjoyed by Rosita's brothers and sisters.^[35] Ibarra said that accused-appellant sent Rosita's children by Victor to school.^[36] He claimed that he saw Leizel at his child's birthday party on June 24, 1990, and that earlier that day he also saw complainant playing and running around the yard of a certain Neneng.^[37] Later in the afternoon, he heard the news that Leizel had been molested.^[38] His "brod" Juanito Saren (also a defense witness) told him that Leizel had been raped but the commander of the detachment, a certain Commander Ochie, did not believe the report.^[39] He said that Leizel was taken by her aunt to a doctor to be examined.^[40] He also claims that the former "in-laws" of Rosita (relatives of Victor Morales) were against Rosita's relationship with accused-appellant.^[41]

On cross-examination, Eduardo Ibarra said that he last saw Leizel playing in the yard of Neneng on June 24, 1990.^[42] He also said that it was public knowledge that Leizel had been raped and that she had gone to the doctor to be examined and to the military detachment to report the matter.^[43]

The last witness for the defense, Juanito Saren, testified that Rosita Loyong (mother of Leizel) is accused-appellant's second wife and that her "in-laws" were against her relationship with accused-appellant.^[44] He claimed that he saw Leizel on June 23, 1990 at the house of Neneng, where Leizel's stepcousin worked as househelper.^[45] He further claimed that he saw Leizel in the afternoon of the same day with a friend, a certain Evangeline.^[46] He was surprised to hear that accused-appellant Candelario Ibalang was guilty of rape. He went to the office of the barangay captain, where he saw accused-appellant, the girl Leizel, Baby Morales and the latter's husband.^[47] He said that accused-appellant was arrested by the Citizen Armed Forces Geographical Unit (CAFGU) on June 24, 1990 and taken to the office of the barangay captain, where accused-appellant learned about the rape charge against him.^[48] As head of their church, he was asked by the barangay captain to talk to accused-appellant to find out why he committed the crime but accused-appellant denied complainant's accusations.^[49] He said the barangay captain referred the matter to the "bankers" (office of the military detachment), where accused-appellant was taken by two CAFGU soldiers.^[50] This witness added that Rosita Loyong was not present during the confrontation because she was in Lupon and only came to know what happened after she went to see accused-appellant in the "bankers."^[51] After that, Rosita went home to have Leizel examined by a doctor.^[52] He said that Rosita did not go with Leizel because she was told by Baby Morales to look for money.^[53] He also said that Rosita's former "in-laws" (relatives of Victor Morales) were angry at Rosita for marrying accused-appellant, because they wanted her to marry a relative of Victor so that the motorcycle, SSS benefits and other properties which she and Victor had acquired during their marriage would not be enjoyed by strangers.^[54] But, he said, that accused-appellant sent Rosita's children to school and loved them and even protected them from Rosita.^[55] He likewise claims that accused-appellant had a strong religious faith and was never absent from church services except when he was sick.^[56]