

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FELICISIMO ARENGO @ “ZOSIMO ROSALES”;
DEFENDANT-APPELLANT.**

G.R. No. 85251. January 22, 1990

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Sentenced to reclusion perpetua for the crime of Rape by the Regional Trial Court of Pasig, Metro Manila, the accused Felicisimo Arengo @ Zosimo Rosales, 32, married, a tricycle driver, has interposed this appeal stressing the inherent incredibility of Complainant's testimony and decrying the Trial Court's finding of guilt despite the alleged paucity of evidence.

Complainant, Corazon Villanea, 41, married, a sidewalk vendor, narrates that on 26 September 1986, at about 12:20 A.M., while sleeping alone inside her small makeshift store situated along Pines Street, Mandaluyong, Metro Manila, a man suddenly covered her mouth and poked a knife at her back. That person, whom she later recognized and identified as the Accused owing to the light filtering in through the tiny holes of the mat covering the front side of her store, told her to remove her underwear. She pleaded that he desist from any untoward designs on her as she could very well be his mother, but the Accused ignored all entreaties. He then removed Complainant's underwear as he also pushed down his pants under the knee and thereafter succeeded in having carnal knowledge of her while she was overcome with fear and was, in fact, trembling. And this, despite Complainant's attempts to close her thighs and knees as the Accused managed to forcibly push them apart. The act consummated, the Accused told Complainant to remain lying down. He then left, walking casually as if nothing had happened, leaving behind the kitchen knife which he had used as well as his blue jacket (Exhibit F).

That was the second time Complainant saw the Accused. The first was two weeks before the incident, at around 3:00 A.M., when the Accused had bought cigarettes at her store and who, while doing so was looking around, according to Complainant.

After the Accused had left, Complainant immediately rushed towards a parked truck about three meters from her store where her son-in-law, Enrique de Leon, Jr., was then sleeping. She woke him up and informed him of the outrage to her person. From the description she had given him, with the direction in which the Accused had fled, Enrique, in his owner-type jeep, succeeded in overtaking the Accused in an area where there was a labor strike.

When confronted, the Accused gave his name as "Zosimo Rosales" and stated that he was one of the strikers. But suspecting that this was untrue Enrique went to the group of strikers and inquired, only to be told that they did not know the Accused. Hearing this, the Accused immediately stated that he was "not the one who raped" (t.s.n., Feb. 8, 1988, p. 27). Enrique then took the Accused to Complainant, who, upon seeing him, readily identified him as the culprit. After which, the Accused pointed to the knife which he had used, placed in the ceiling of the store.

With the Accused in tow, Complainant and her son-in-law, Enrique, proceeded to the police station where the former lodged a formal complaint. Complainant then submitted herself to physical examination by the

Medico-Legal Officer of the PCCL, Camp Crame, whose findings were "positive for spermatozoa x x x compatible with a recent sexual intercourse" with "no external signs of recent application of any form of trauma" (Exhibit "C-2").

Fortunato Capacillo, the police investigator who was on duty at the time the incident was reported, confirmed that Enrique de Leon had taken the Accused to headquarters; that the Accused had given as his name Zosimo Rosales and not Felicisimo Arengo; that he took down the statements of Complainant and the Accused; that when he interrogated the Accused the latter replied that he was drunk and that he wanted to ask for forgiveness from the Complainant; when given a chance to do so, however, Complainant, refused to forgive him.

Arrayed against the foregoing is the testimony of the Accused himself, who declared that he and Complainant are lovers; that on 26 September 1986 at around 11:00 o'clock P.M., he had just parked the tricycle he was driving at EDSA Central when, unexpectedly, Complainant came and told him to go to her store. Accused acceded after taking his tricycle to his home. Before entering the store he asked her whether her husband was there. When told that he was not, he entered. They talked together and later indulged in the act. When he went out, Complainant warned him that somebody might see him. He then went home.

He continued to state that on his way home he was accosted by male persons riding on a vehicle who mauled him and forced him to admit that he was the one who had committed Rape. He was then taken to the police station at EDSA. Thereat, he was "forced" to sign a waiver of arrest and of detention.

The Accused added that it was Complainant herself who first gave the motive as he used to eat at her store quite often. This prompted him to court her. He added that after seeing each other for several times, Complainant insisted that they might as well live together because she and her husband were quarreling often, but that he refused. And because of that refusal she harbored ill feeling against him.

Testifying for the defense, Rosalinda de Jesus declared that the Accused had been living with her and her children for two years and that he was of good moral character.

Giving no credence to the version of the Accused, the Trial Court rendered a guilty verdict, thus:

"PREMISES CONSIDERED, the Court finds the accused FELICISIMO ARENGO y Ajero alias ZOSIMO ROSALES y Fajardo guilty beyond reasonable doubt of the crime of rape and hereby sentences the said accused FELICISIMO ARENGO y Ajero to reclusion perpetua, together with the accessory penalties, to indemnify the complainant-victim Corazon Villanea y Salangsang in the amount of FIFTY THOUSAND PESOS (P50,000.00) in compliance with the mandate in Articles 100, 104 (3), 107 and 345 of the Revised Penal Code and to pay the costs.

"In the service of his sentence, the accused shall be credited in full with the period of his preventive imprisonment.

"SO ORDERED."

We affirm.

The truth of Complainant's charge is bolstered by the following considerations: (1) immediately after the affront to her honor, she looked for her son-in-law, Enrique de Leon, and informed him about it. It was because of the description that she gave that the latter, with other companions, succeeded in overtaking and accosting him (the Accused) soon after the incident. (2) Complainant lost no time in reporting the outrage on her person to the police and thereafter submitting herself to physical examination on the very same day. (3) When Accused asked her for forgiveness, she refused to pardon him.

These actuations are inconsistent with the Accused's allegations that they had an illicit liaison. If, in fact, Complainant was his paramour, she could have easily forgiven the Accused; she would not have submitted herself to physical examination of her private parts; she would not have gone to the extent of filing this charge; nor would she have allowed herself to undergo the rigors and the embarrassment of a public trial.

That there was force employed on Complainant is shown by the fact that the Accused had effectively silenced Complainant by covering her mouth and poking a knife at her. She tried to avert the sexual attack by putting her thighs and knees together but Accused succeeded in forcibly spreading them apart. Complainant was stricken with fear and was trembling. It was understandable that under those circumstances she did not shout as the defense claims she should have. Individuals react to situations differently depending on their character traits. Besides, Rape is likewise committed when intimidation is used on a victim and the latter submits herself against her will because of fear for her life and personal safety." (People vs. Savellano, L-31227, 31 May 1974, 57 SCRA 320; People vs. Garcines, L-32321, 28 June 1974, 57 SCRA 653).

The defense further contends that it is preposterous for Complainant to claim that the Accused had returned the knife to where it was placed in the store ceiling. Actually, however, as testified to by Enrique de Leon, it was when he took the Accused to Complainant for identification that said Accused pointed to the knife which he and Complainant found in the ceiling (t.s.n., 8 February 1988, pp. 2-3). There was no categorical statement by Complainant that Accused had returned the knife to its original position.

While, indeed, the medico-legal report showed no signs of external injuries, it by no means follows that Complainant had consented to the sexual act. Complainant is a married woman and such manifestations generally seen around the private parts after rape has been committed, such as abrasions and rupture of the hymen, may no longer be expected. Besides, in rape cases, force need not always produce physical injuries. Force need not be irresistible; all that is necessary is that the force used by the accused is sufficient to consummate his evil purpose (People vs. Savellano, supra)

Of note as well are Accused's spontaneous and unconscious reactions, which negate his protestations of innocence: 1) at the police station the Accused tried to ask Complainant for forgiveness; 2) when first confronted by Enrique de Leon he immediately tried to exculpate himself by saying that he "was not the one who raped;" 3) when asked for his name he tried to hide his true name, giving only his alias, first to Enrique, and then to the police investigator. It was only during the trial that he divulged his true name after he was recognized by the Prosecuting Fiscal as one who had been convicted previously by the same Court for the crime of Illegal Possession of Firearms.

All the foregoing considered, the mind rests easy in confirming the finding of guilt.

WHEREFORE, the judgment appealed from is hereby affirmed with the modification that the award of damages is reduced to P30,000.00, conformably to jurisprudence.

With costs against accused-appellant, Felicisimo Arengo alias Zosimo Rosales.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

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