

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE SEGUNDO, ROMEO CASTILLO AND MERLEN CASTILLO, ACCUSED, FELIPE SEGUNDO, ACCUSED-APPELLANT.

G.R. No. 88751, December 27, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

For raping his 22-year old comadre Erlinda Estillana, FELIPE SEGUNDO was sentenced to reclusion perpetua. Now before us, he repeats that his comadre is an old flame and that their sexual congress was between two consenting adults. Erlinda however fervidly denies this. We believe her, as did the court a quo.

Erlinda narrated her ordeal in open court thus: On 4 October 1986, together with her two children, she decided to pass the night in the house of the spouses Romeo and Merlen Castillo, their family friends, in Sitio Danapa since her husband Primo Estillana failed to return that evening from Barangay Kinaguitman, Northern Samar, where Primo, Romeo and accused-appellant Felipe Segundo went to sell their copra. The three had drunk heavily before heading for home. Primo passed out and thus could not manage the 3-1/2 kilometer trek back to Sitio Danapa. Only Romeo and Felipe were able to make it home. At about ten o'clock that evening, Erlinda laid the mat Romeo had given her and started to sleep with her two children. She was awakened by accused-appellant Felipe Segundo who pulled her and started kissing her. She kicked and shouted for help, but was instead threatened with a kinogon (a local knife). She continued struggling and kicking but became weak and numb after she was hit in the thighs. Then she was ravaged. He kissed and mashed her breasts, inserted his fingers into her vagina and thereafter raped her. During her ordeal, she heard Romeo from the adjoining room ordering her to keep quiet. The following morning, she was fetched by her husband Primo from the Castillo household. Upon reaching their house, she recounted her fate to Primo. She subsequently submitted herself for a medical examination.

Dr. Jesus M. Bacayo, Senior Resident Physician in the Allen District Hospital, testified that when he examined Erlinda on 23 October 1986 she had an old hematoma on both thighs which could have been caused by fist blows, and which could have immobilized her. She also had lacerations in the labia majora and minora which could have been caused by the forceful ramming of a blunt object against them.

Because of Erlinda's complaint, the information for rape filed against Felipe included the couple Romeo and Merlen Castillo who allegedly conspired with the accused-appellant.

Felipe Segundo however has a different tale. He claims that Erlinda is an old sweetheart, their intimacies dating back to their high school days in 1979. They both resided in Barangay Kinaguitman, Allen, Northern Samar, and frequently walked together to the town to attend school. He was then in fourth year while she was in third year. Their relationship was cut short in 1980 when Erlinda had to leave for Manila. Thereafter, they led separate lives. He married Susan and resided in Sitio Danapa, while Erlinda lived-in with her common-law husband Primo in Manila. However, Primo and Erlinda returned to reside in Sitio Danapa and became his neighbors together with the Castillos. The three couples became so close that Primo and Felipe stood as sponsors in the baptism of a child

of Romeo and Merlen. Primo also became the godfather of Felipe's son Arvin. He denies having sexual intercourse with Erlinda on 4 October 1986. He claims that after drinking with Primo and Romeo that evening in the house of Mario Libete in Barangay Kinaguitman, he spent the night with his mother who fetched him. After that evening, nothing unusual happened as he was even asked two days later to take care of Erlinda's sow with the agreement that its piglets would be shared equally. He however alleges that on 13 October 1986, at about ten o'clock in the morning, he chanced upon Erlinda washing clothes beside a well near the house of Romeo and Merlen Castillo. He approached her and reminded her of their past. Their conversation ended with an agreement to satisfy their sexual urge that same afternoon. Thus, after having their respective meals, they again met beside the well and proceeded to the kitchen in the house of Romeo and Merlen Castillo to relieve themselves. There, Erlinda laid down on a bench while he unzipped his pants and went on top of her. However, as they were just about to satisfy their lust, Susan, appellant's wife, barged into the kitchen and caught them. Meanwhile, Merlen who was awakened, went to the kitchen to see what the commotion was all about. Pale and trembling, Erlinda could not speak. Merlen was then told by Susan that she caught Erlinda and her (Susan's) husband making love. That same afternoon, Merlen informed Primo, upon the latter's return from the ricefield, of what transpired.

In its Decision of 28 February 1989, the Regional Trial Court of Allen, Northern Samar, Br. 23,[1] adjudged the testimony of Erlinda to be credible and found Felipe guilty beyond reasonable doubt of rape. The trial court observed that –

“x x x Erlinda Portes Estillana appeared positive, straightforward and consistent in the narration of the facts she was declaring about in Court; she was unwavering, notwithstanding the lengthy and exhaustive cross-examination x x x x In brief, the Court has observed her to be credible and trustworthy. Perforce, the Court accords her full faith and credence.”[2]

The trial court however was not convinced that conspiracy was present; consequently, it acquitted the couple Romeo and Merlen Castillo. Thus, the instant appeal from the remaining defendant, accused Felipe Segundo.

In the first error assigned, appellant claims that the testimony of Erlinda "does not invite the slightest belief." [3] He argues that it is highly improbable that Erlinda could be raped at that time considering that the place where it was allegedly committed was very near the room of the Castillos.

This is untenable. We have ruled time and again that rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, and even inside the house where there are other occupants.[4] As we have repeatedly said, lust is no respecter of time or place.[5]

The argument that "tenacious resistance" was absent is unacceptable, for it has been settled that the law does not impose a burden on the rape victim to prove resistance. What needs only to be established is the use of force or intimidation by the accused in having sexual intercourse with the victim.[6] This, the prosecution was able to prove.

That the victim did not "just jump or step into that portion of the partition where Romeo and Merlyn were and stayed by Merlyn's side x x x x or take hold of her children"[7] to prevent the rape is immaterial. Persons do not necessarily react uniformly to a given situation.[8] There is no standard form of behavior when one is confronted by a shocking incident.[9] Besides, how Erlinda reacted may not be unusual after all, considering that she was threatened with a kinogon, repeatedly punched and ravished. Indeed, a mother may choose not to endanger her life, much less her children's, in exchange for her chastity.

Accused-appellant also takes issue in the lighted lamp which enabled Erlinda to positively identify accused-appellant. He finds it incredible that he gave the victim a chance to see his face and recognize him. This contention is without merit. It is not uncommon for criminals to be careless about or to even intentionally reveal

their identities to their victims. The failure by a criminal to conceal his identity would not make the commission of the crime any less credible. Bragadoccio among criminals is not unexpected. Very often too, they are secure in the thought that they have instilled sufficient fear in their victims that the latter will not give them away to the authorities.[10]

Accused-appellant also faults Erlinda for "[h]er long silence and delay in the filing of this case (which) militate against her assertions for such a long silence and inaction is indeed contrary to human conduct and common experience." [11] The imputation must be brushed aside. A lapse of 19 days cannot be considered "long silence and inaction." In one case, [12] we said that the lapse of 35 days from the time the rape was committed until it was reported cannot be considered unreasonably long to render the victim's testimony doubtful. Still, in another case, [13] we ruled that a four-month delay in reporting the rape incident may be justified. The victim's delay in reporting the rape may be due to the malefactor's threat that he would harm her family if she revealed the incident to anyone and her consequent fear or the shame that would result from the disclosure of the dishonor done to her. [14]

Certainly, accused-appellant's insistence that if there was any sexual intercourse between accused-appellant and the complaining witness on 4 October 1986, it was with their mutual consent must be rejected. As found by the trial court which had the opportunity and responsibility to observe the witnesses and assess their credibility, the testimony of Erlinda deserves credence. And absent any showing of arbitrariness, we have to respect the findings of the trial court. [15] There being no traces of arbitrariness, we cannot stray from the finding that Erlinda was indeed raped by accused-appellant in the evening of 4 October 1986. When a woman says that she has been raped, she says in effect all that is necessary to show that rape was committed and that if her testimony meets the test of credibility, the accused may be convicted on the basis thereof. [16]

In rape cases, the accused may be convicted solely on the testimony of the complaining witness whose testimony is credible, natural, convincing and otherwise consistent with human nature and course of things. [17] Hence, the appellant's assertion that the lower court erred in disregarding his and his witnesses' testimonies that he did not commit the offense charged, [18] must fail.

Indeed, courts cannot interfere with the extra-marital affairs of consenting adults. That is their own business. But when one mate fails to charm the other and forces her into submission against her will, then the law and the courts must step in to impose the appropriate penal sanction.

The evidence for the prosecution being more than sufficient to prove his guilt beyond reasonable doubt, accused-appellant Felipe Segundo is guilty of rape and should be sentenced to reclusion perpetua under Art. 335 of the Revised Penal Code; and, consistent with recent pronouncements, his civil liability is increased to P30,000.00.

WHEREFORE, the appealed Decision finding accused-appellant FELIPE SEGUNDO guilty of rape is AFFIRMED with the sole modification that the award of civil indemnity or moral damages in favor of complaining witness Erlinda Portes Estillana is increased to P30,000.00. Costs against accused-appellant.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Quiason, JJ., concur.

[1] Judge Clemente C. Rosales, presiding.

[2] Decision, RTC, Br. 23, Allen, Northern Samar, p. 10.

- [3] Appellant's Brief, p. 11.
- [4] People v. Ramos, G.R. No. 68209, 9 December 1993, citing People v. Dabon, G.R. No. 102004, 16 December 1992, 216 SCRA 656, in turn citing People v. De los Reyes, G.R. No. 85771, 19 November 1991, 203 SCRA 707.
- [5] People v. Ramos, Note 4; People v. Mangalino, G.R. No. 79011, 15 February 1990, 182 SCRA 329.
- [6] People v. Dinola, G.R. No. 54567, 22 March 1990, 183 SCRA 493.
- [7] Appellant's Brief, p. 12.
- [8] People v. Yadao, G.R. Nos. 72991-92, 26 November 1992, 216 SCRA 1.
- [9] People v. Radomes, G.R. No. 68421, 20 March 1986, 141 SCRA 548.
- [10] Note 6.
- [11] Appellant's Brief, p. 17.
- [12] People v. Santiago, No. L-46132, 28 May 1991, 197 SCRA 556.
- [13] People v. Abuyan, Jr., G.R. Nos. 95254-55, 21 July 1992, 211 SCRA 662.
- [14] People v. Villanueva, G.R. No. 96712, 20 July 1992, 211 SCRA 651; People v. Santiago, See Note 2.
- [15] People v. Deuna, G.R. No. 87555, 16 November 1993.
- [16] People v. Biendo, G.R. No. 84731, 16 December 1992, 216 SCRA 626.
- [17] People v. Alvarez, G.R. No. 73071, 11 September 1992, 213 SCRA 722.
- [18] Appellant's Brief, Second Assignment of Error, p. 19.

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