

## **THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMANDO DAING, JR., AND FREDO PAULMITAN, DEFENDANTS-APPELLANTS.**

*G.R. No. L-40574. November 29, 1984*

Ponente: CONCEPCION JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ac6c07bff919/>

---

### **CONCEPCION JR., J.:**

Armando Daing, Jr., and Fredo Paulmitan were charged before the Court of First Instance of Negros Occidental with the crime of Rape, committed as follows:

"That on or about the 5th day of January, 1974, in the municipality of La Castellana, province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, con-federating and helping one another, by means of force and intimidation, did then and there, wilfully, unlaw-fully and feloniously have carnal knowledge of one Elena de los Reyes, a girl of 15 years old, against the will of the latter."

After trial, the said accused were found guilty of the offense charged and each sentenced to suffer the penalty of reclusion perpetua, with all the accesory penalties provided by law; to indemnify the offended girl, Elena de los Reyes, jointly and severally, in the amount of P5,000.00, by way of moral damages, without subsidiary im-prisonment in case of insolvency; and to pay the costs. From that sentence, the two accused appealed to this Court.

The People's version of the case is as follows:

"On January 5, 1974, at about 7:00 o'clock in the morning, complainant Elena delos Reyes, a 15-year old feeble-minded girl, was at the public plaza of La Cas-tellana, Negros Occidental (p. 8, tsn, Aug. 8, 1974). Elena was requested by her sister with whom she was staying to deliver a letter to her sister who was living at Bacolod City (p. 3, tsn, Aug. 15, 1974). In the public plaza, she met Boy Ledesma who invited her to get sugarcane near the Regional High School (p. 3, tsn, Aug. 15, 1974). When the two reached Antolan River which was about fifty (50) meters away from the said school, Ledesma and the two accused, Armando Daing, Jr. and Fred Paulmitan, forcibly dragged Elena towards the sugarcane field at Hacienda Taborda, La Castellana, Negros Occidental (pp. 4-5, tsn, Aug. 15, 1974). Cris-teta Lorico who was then washing clothes along the Antolan River saw Elena being dragged by the accused (pp. 2-3, tsn, Aug 8, 1974). While Elena was inside the cane field, the accused stripped off her pants and dress; thereafter she was pushed to the ground (pp. 9, 10, tsn, Aug. 8, 1974). At this juncture, Paulmitan laid on top of Elena and had sexual intercourse with her while Daing was holding her hands (p. 10, tsn, Aug. 8, 1974; p. 6, tsn, Aug. 15, 1974). When Paulmitan had finished, Daing took his turn and had carnal knowledge of complainant while Paulmitan was holding her legs (p. 6, tsn, Aug. 15, 1974). While complainant was being abused by the two accused, she cried, struggled, and shouted 'Nanay, Nanay' but no one came to help her (p. 7, tsn, Aug. 15, 1974). Edita Pardilla who was a neighbor of Elena saw the whole incident as she was then gathering vegetables near the vicinity of the incident (pp. 5-6, tsn, Aug. 20, 1974). After the intercourse, the two accused admonished complainant not to report the incident to anybody or else they would kill her (p. 14, tsn, Aug. 8, 1974).

"After the incident, Elena left the place and went home (p. 7, tsn, Aug. 15, 1974).

"On January 6, 1974, Roberto delos Reyes, Elena's father, who was staying at Iloilo received a telegram from his other daughter, Victoria delos Reyes with whom Elena was staying informing him of the incident (p. 3, tsn, Dec. 19, 1974). The following day, Roberto went to La Castellana, Negros Occidental (p. 7, tsn, Dec. 19, 1974). Upon arrival at La Castellana, he accompanied Elena to the Chief of Police to file a complaint against the accused Daing, Jr. and Paulmitan (pp. 8-9, tsn, Dec. 19, 1974).

"On January 9, 1974, Elena was physically examined by Dr. Romeo L. Lazaro, Acting Municipal Health Officer of La Castellana, Negros Occidental, who issued a medical certificate (Exh. 'B') containing the following findings:

'External Physical Examination:

No signs of Physical Injury

'Internal Physical Examination:

1. Hymen - Presence of healed lacerations at 5:00 o'clock, 4:00 o'clock, and 9:00 o'clock.
2. Vaginal canal admits one finger freely.
3. Cervix is close.'

"Thereafter, a criminal complaint for rape (Exh. 'A') signed by Elena delos Reyes, with the written conformity of her father, Roberto delos Reyes, was filed on January 11, 1974 before the Municipal Court of La Castellana."

The accused-appellants do not deny that they had sexual intercourse with Elena delos Reyes on January 5, 1974, in a sugarcane field at Hacienda Taborda, La Castellana, Negros Occidental. Both claim, however, that the sexual acts were done voluntarily and with the consent of Elena delos Reyes, for a fee. They declared that on the day previous to the incident in question, or on January 4, 1974, while they were sitting in the lover's lane of the public plaza of La Castellana, at about 5:30 to 6:00 o'clock in the afternoon, one Boy Ledesma and a girl whom he introduced as Elena delos Reyes, approached them and intimated to them that Elena was offering pleasure for a fee. They asked how much and Boy Ledesma told them that the girl was charging P10.00. Since they had no money at the time, they made arrangements to meet the following day at the Antolan River.

The next day, January 5, 1974, the two accused met at the public plaza and proceeded to the Antolan River. Boy Ledesma and the girl were already at the place of assignation when they arrived. They chatted for a while after which Boy Ledesma and the girl went inside the cane field. Paulmitan followed them up to the edge of the cane field, while the accused Armando Daing, Jr. remained in the river bank. After a short time, Boy Ledesma came out and told Paulmitan to go inside as the girl was ready. Paulmitan went inside and saw Elena sitting on a furrow covered with dried sugar cane leaves. He sat beside Elena and told her of his desire to have sexual intercourse with her. Elena did not say a word so that he began to undress her. But, Elena restrained him saying that she will be the one to remove her clothes. Elena then took off her clothes and they had sexual intercourse. After he was finished, he came out and beckoned to Armando that it was now his turn. Armando Daing, Jr. went inside and found Elena lying on the ground, covered by her T-shirt and pants. He sat beside her and also expressed his desire to have sexual intercourse with her. Elena, however, did not answer him. She just smiled. So, the accused removed his pants and sat beside her. He asked Elena if she agrees to have sexual intercourse with him and she told him to go ahead, and he had sexual intercourse with her. After the sexual act, Armando Daing, Jr. told Elena

that he would go ahead and for her to follow. Armando then went towards the river bank where Boy Ledesma and Fredo Paulmitan were waiting. He gave Boy Ledesma P5.00, and when the latter complained, he assured Boy Ledesma that he would add some more as soon as they have the money.

The four then walked home. While on their way, Paulmitan made a date with Elena to meet at the public plaza the following morning. Then, upon reaching the Regional High School grounds, they parted ways.

On January 6, 1974, Paulmitan and Elena met at the public plaza at about 8:00 o'clock in the morning, as agreed upon. Then they proceeded to the South Elementary School, where they had sexual intercourse at the cane field behind the school building. After the intercourse, they went home. On their way, they met Boy Ledesma who berated Paulmitan for taking the girl out without telling him. Paulmitan, however, answered that Elena went with him. Then, he left Elena with Boy Ledesma.

Meanwhile, on that same morning of January 6, 1974, Boy Ledesma had approached one Fermin Asaria, a tricycle driver, and offered Elena to him for a fee. Fermin Asaris agreed and Boy Ledesma brought him to the South Elementary School. But, upon reaching the school building, Boy Ledesma turned back and told Asaria who was following him, to wait as the girl was then engaged. He led Asaria to the back of the school building and pointed to Paulmitan having sexual intercourse with Elena in the sugar cane field. Asaria was disappointed and left.

After going over the record of the case, We are convinced that the guilt of the appellants have been proven beyond reasonable doubt and that there is no merit to the claim of the appellants that the sexual acts with Elena on January 5, 1974 were voluntary. To start with, the appellants fled soon after the commission of the crime. The trial court said:

"Flight and subsequent conduct of herein two accused are indicative of guilt. The evidence shows that Paulmitan, although a native of the municipality of Hinigaran, province of Negros Occidental, has been a resident of the poblacion of La Castellana for the past eight (8) years. He admits he was arrested on January 11, 1974 in the municipality of Hinigaran. Obviously, he left La Castellana immediately after the commission of the crime. After his arrest, while confined in the municipal jail of La Castellana, he escaped on April 22, 1974, and was rearrested only on May 22, 1974. He claims that he did not escape but was merely allowed to leave the jail as a 'living out' prisoner cannot prevail over the positive assertion of Chief of Police Othello Caballes of the Municipal Police Force of La Castellana, corroborated by the entry on the Police Blotter (Exhibit 'K') and the letter of Lieut. Col. Meliton Goyena, Provincial Commander of Negros Occidental, to Atty. Raul Montesino, private prosecutor (Exhibit 'E'), that accused Paulmitan had escaped from the municipal jail on April 22, 1974. In the case of the accused Armando Daing, Jr., he admits he was arrested by the Police of La Castellana on May 1, 1974, about four (4) months from the time the warrant of arrest was issued on January 11, 1974. The return of service of the Office of the Chief of Police (Exhibit 'H') dated January 21, 1974 shows that Armando Daing, Jr. could not be arrested as he was still at large and his whereabouts unknown.

"Patrolman Efren Baladiang declared that he was dispatched to the house of accused Armando Daing, Jr. in La Castellana but he could not be arrested as he was allegedly working at Tiguisan Reforestation in the municipality of Moises Padilla. Patrolmen Victorino and Maningo were dispatched to Tiguisan but the accused could not be found."

The immediate flight and sojourn of the accused-appellants in other places until their arrest are, in some sense, a silent admission of guilt and are incompatible with their claim that the carnal acts complained of were voluntary and consented.

The record also shows that the accused-appellants were jobless at the time so that, as the trial court observed, they

had no means with which to indulge in the luxury of having sexual intercourse at the price charged by Boy Ledesma. Although Paulmitan declared that he used to receive the amount of P5.00 every day from his uncle, Felipe Nalang, the trial court did not believe that Paulmitan could have spent his daily allowance in order that he and Armando Daing, Jr. could satisfy their sexual desires. Besides, it is hard to believe that the alleged pimp, Boy Ledesma, had allowed the two appellants to have sexual intercourse with Elena without first getting the full payment in cash, or to accept the meager amount of P5.00 and their promise that he will be given some more money as soon as the appellants have some.

Besides, the record shows that the complainant was feeble-minded and mentally deficient and incapable of giving consent to the sexual acts. It is a well-settled rule in this jurisdiction that carnal knowledge of a woman who is weak in intellect to the extent that she is incapable of legally consenting constitutes the crime of rape.[1]

Furthermore, the basic issue is centered on the credibility of contending witnesses and the rule is that the conclusions and findings of the trial court are entitled to great weight on appeal. It may be true that the testimony of the complainant suffers from discrepancies or contradictions, but, as the trial court found, her testimony would clearly satisfy an unprejudiced mind that the sexual acts complained of were effected against her will and consent. The trial court said:

"It must be conceded that the testimony of the offended girl Elena delos Reyes suffers from discrepancies or contradictions which ordinarily would tend to cast doubt on its veracity. While in her direct testimony she says it was Daing who stripped her of her clothes, pushed her to the ground and had sexual intercourse with her first, on cross-examination she asserts it was Paulmitan who raped her first. Also from her direct testimony it would seem that Boy Ledesma and the two (2) accused were together when they met her at the public plaza from where she was forced to go with them to the sugarcane field, but this was clarified later stating that she acceded to Ledesma's invitation to go to the Regional High School to get sugarcane and that upon reaching the Antolan River she was pulled and pushed towards the sugarcane field at Hda. Taborda. She admits that after the intercourse at 7:00 o'clock in the morning inside the cane field at Hda. Taborda she also had intercourse with four (4) other men at Sitio Lapok about two (2) kilometers away from Hda. Taborda, and that on the following day - a Sunday - January 6 - she again had sexual intercourse with Paulmitan behind the South Elementary School in La Castellana. These circumstances would ordinarily belie any claim that the sexual intercourse was committed against her will or consent, thereby precluding a finding of guilt for the crime of rape. But many portions of her testimony, particularly in the course of a searching cross-examination clearly would satisfy an unprejudiced mind that the sexual intercourse was effected against her consent and by the use of force. Thus she declared:

'Q Who among these two accused stripped you?

A Armando.

'Q After Armando Daing stripped you, what happened?

A Then he pushed me.

'Q What happened to you after he pushed you?

A I fell to the ground.

'Q After you fell to the ground, what did Armando Daing do to you?

A He laid on top of me.

'Q Was he able to have sexual intercourse with you?

A Yes, sir.

'Q After Armando Daing had sexual intercourse with you, what did Alfredo Paulmitan do?

A Well, he also had sexual intercourse with me.

'Q Was this sexual intercourse committed by Armando Daing and Alfredo Paulmitan with you, with your consent?

A No, sir.

'Q When this Armando Daing had sexual inter-course with you, what did you do?

A I shouted for help but they did not re-lease me.

'Q When Armando Daing, Jr. was having sexual intercourse with you, what was this Al-fredo Paulmitan doing?

A He was holding me.

'Q What part of your body was he holding?

A He was holding me tightly.

'Q What part of your body was he holding?

A He pulled both my hands behind my back.' (TSN, Iyog, Aug. 8, 1974, pp. 3 and 4)

'Court: But before their intercourse with you, did they say anything?

A Yes, sir.

'Court: What did they tell you?

A They asked me to go with them.

'Q Did they tell you where?

A Yes, sir.

'Court: Where?

A To the Regional High School.

'Court: What was your answer?

A Well, I told them I did not go to them. (witness laughing)

'Court: And when you answered you did not want to go with them, what happened?

A I was forced.

'Court: Forced to do what?

A They forced me to lie down on my back.' (TSN, Iyog, Aug. 8, 1974, pp. 5 and 6)

'Q Why were you able to reach that parti-cular field when according to you, you did not consent to the invitation of Boy Ledesma to get sugar cane?

A Because he dragged me.

'Q It was only Boy Ledesma who dragged you to the sugarcane field?

A Three of them.

'Q Who are those three persons?

A Fredo Paulmitan, Armando Daing, Jr., and Boy Ledesma.' (TSN, Aguirre, Aug. 15, 1974, pp. 2 and 3)

'Q You mean to say that you were already in the sugarcane field when Daing and Paulmitan arrived?

A No, sir.

'Q Where were you then when these two accused followed?

A I was by the river.

'Q Now when these two accused were already on the river they invited you to the sugarcane field?

A Yes, sir.

'Q And you followed?

A No, sir.

'Q Were you able to reach the sugarcane field?

A. Yes, sir.

'Q How did you happen to reach the sugar cane field when you did not follow the invitation of Daing and Paulmitan?

A Because the three of them pulled me towards the cane field.

'Q From the public plaza of La Castellana to Antolan River you were not called by anybody but you just went there voluntarily?

A They did not pull me from the plaza but they pulled me while we were already at the river.' (TSN, Aguirre, Aug. 15, 1974, pp. 2 and 3)

'Q While this Fredo Paulmitan was having sexual intercourse with you, what was this Armando Daing, Jr., doing?

A He was holding both my hands.

'Q While this Armando Daing, Jr. was having sexual intercourse with you, what was Fredo Paulmitan doing?

A He held both my legs.

'Q Now, when these two accused were having sexual intercourse with you, did you not ask help from Boy Ledesma?

A I cried for help.

'Q What was the help you were begging?

A I was shouting 'Nanay, Nanay'. (TSN, Aguirre, Aug. 15, 1974, p. 5)

'COURT QUESTIONS

'Q At the time of the intercourse on January 5, 1974, what was your wearing apparel?

A I was wearing a shirt and a pants.

'Q Did you have underwear?

A Yes, sir.

'Q Was your panty removed before the intercourse?

A No, sir.

'Q How about the underwear was it removed?

A No, sir.

'Q Did your panty or underwear get torn?

A Only my pants got torn.

'Q What part of your pants was torn?

A The back portion.

'Q Was this at the zipper portion?

A At the zipper portion.

'Q. Could you please tell the court why it was torn?

A Because the zipper was ripped or destroyed.

'Q Why?

A Because they suddenly opened the zipper.

'Q Did you try to stop them from opening your zipper?

A No sir.

'Q Why not?

A Actually I do not want to take off my pants but they forcibly opened the zipper of my pants. (TSN, Aguirre, Aug. 15, 1974, p. 8)."

Elena did not concoct the charge against the appellants. She had no reason or motive to do so. Rape is the most difficult crime to report and to prosecute. Humiliation and shame accompany the rape victim from the moment of the attack. A woman who is raped is seen as defiled and often as having brought the rape on herself. These attitudes carry over into the treatment of the victim from the police station to the court, where the rape victim's complaint is often callously disbelieved. It is not seldom that the woman's experience in the police station and in court are as humiliating as the rape itself. So much so that a rape victim would not expose herself publicly in court by airing acts repugnant to her modesty unless im-pelled by the outrage perpetrated upon her person and inspired by a sincere desire to seek redress.

It is alleged that the complaint was filed only after Elena was compelled by her father. However, the initial reluctance of the com-plainant to file a complaint against the herein appellants was be-cause the said appellants had threatened to kill Elena if she reported the matter to the authorities.[2]

It is also alleged that the sexual acts complained of were volun-tary in view of the following circumstances: "firstly, that dried sugarcane leaves were spread on the ground for the offended woman to lie on to prevent her clothes being soiled; secondly, the medical examination conducted by Dr. Lazaro revealed that the offended party

did not sustain external injury; thirdly, that the offended party was hesitant to file a criminal charge against the accused not until she was severely scolded by her father; and fourthly, she went voluntarily with accused Paulmitan to the South Elementary School and had another sexual intercourse with the latter a day after the incident in question."

It could not be true, however, that sugarcane leaves were prepared so that the complainant's dress would not get soiled since the complainant categorically stated that her dress and jeans were soiled.[3]

The absence of bruises, contusions and abrasions on the complainant is not inconsistent with her claim that she was sexually abused by the appellants against her will and consent. According to the complainant the appellants stripped off her pants and dress and then pushed her to the ground, and thereafter, had sexual intercourse with her one after the other, and that one was holding her tightly by the hands or feet while the other was having sex with her.[4] But, she was not beaten or otherwise injured. Under the circumstances, there would be an absence of external injury.[5]

Although the information charges only one offense of rape, the evidence for the prosecution clearly establishes the commission of two separate offense of rape. Each of the appellants therefore is guilty of two separate offenses of rape.

WHEREFORE, appellants Armando Daing, Jr. and Fredo Paulmitan are each of them hereby found guilty of the commission of two separate offenses of rape defined and penalized under Article 335 of the Revised Penal Code as amended, without any mitigating or aggravating circumstances, and are hereby sentenced for each offense, to suffer the penalty of reclusion perpetua or life imprisonment, to indemnify the offended party, Elena delos Reyes, jointly and severally, in the sum of Thirty Thousand Pesos, without subsidiary imprisonment in case of insolvency, and to pay the costs.

### **SO ORDERED.**

Makasiar (Chairman), Aquino, Abad Santos, Escolin, and Cuevas, JJ., concur.

---

[1] People vs. Manlapaz, G.R. No. L-41819, Feb. 28, 1979, 88 SCRA 704.

[2] tsn. of August 8, 1974, p. 14.

[3] tsn. of August 15, 1974, p. 6.

[4] tsn. of August 8, 1974, pp. 9, 10; tsn. of August 15, 1974, p. 6.

[5] See People vs. Ludovice, G.R. No. L-34986, March 26, 1984, 128 SCRA 361.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.