

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO DUMANLANG, ACCUSED-APPELLANT.

G.R. Nos. 132393-94. August 07, 2002

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-132393-94/>

KAPUNAN, J.:

On January 30, 1997, the Regional Trial Court of Manila, Branch 28, found the accused Leonardo Dumanlang guilty of two (2) counts of rape and imposed upon him the supreme penalty of death on each count. These cases are now before us for automatic review.

These criminal cases stemmed from two (2) Informations filed against the accused. Except as to the dates of the commission of the crime,[1] the Informations commonly alleged as follows:

That on or about May 1994, in San Marcelino Street, Ermita, Manila, Philippines and within the jurisdiction of this Honorable Court, said accused LEONARDO DUMANLANG Y ENRIQUEZ actuated by lust and by means of force and intimidation, wilfully, unlawfully, and feloniously did then and there lie and succeeded in having carnal knowledge with EDNA MACASSADU Y BRUNO inside room 204 of D' Traveller's Pension House against her will and consent and to her damage and prejudice.[2]

On August 2, 1994, the accused, duly assisted by his counsel, entered a plea of not guilty in each of the two cases. Thereafter, joint trial proceeded.

The facts are as follows:

Edna Macassadu came to Manila from Sto. Niño, Cagayan to look for a job. On May 11, 1994, she went to the Diamond Employment Agency located in Agoncillo St., Malate, Manila.[3] Josephine Biturin, manager of the said employment agency, sent her to D' Traveller's Pension House in San Marcelino St., Malate, Manila to work as a counter girl.[4] When Edna arrived at the pension house, she saw the accused Leonardo Dumanlang. The latter asked her name and gave her a bio-data form for her to fill up. After filling up her application form, Edna was told to bring her bag upstairs. She followed and after placing her clothes in the room assigned to her, she was made to eat as it was already twelve thirty in the afternoon.[5]

After lunch, a certain Glorina told her to go downstairs. Edna was handed a copy of the rules and regulations.[6] Thereafter, Leonardo directed Edna to go to his office upstairs. Edna was led to Room 204 where she was made to sit on a chair near a bed.[7] Leonardo then went out of the room and Edna read the rules and regulations given to her. Moments later, Leonardo came back, closed and locked the door. He told Edna that "he didn't want to be answered with "ho, po or opo." Edna was so frightened because Leonardo was smiling and laughing while sitting in front of her. She asked him why he locked the door, but Leonardo just said "Oops, you said po, come here and kiss me." Alarmed, Edna stood up to get out of the room but Leonardo prevented her from doing so.[8] Leonardo forced her to kiss him. He then pushed her to the bed and laid on top of her. She tried to resist but the accused was too strong for her. She shouted for help but Leonardo pulled a gun from his waist and pointed it at Edna who was trembling in fear.[9] Leonardo forcibly unbuttoned Edna's blouse and kissed her on her lips and from the cheeks

down. He pulled her brassiere and sucked her breast. He then pulled her pants and underwear. Edna pleaded for pity but Leonardo only laughed at her.[10] He unzipped his pants and brought out his penis. Then using his feet, he pushed Edna's thighs apart. After succeeding in spreading Edna's legs, Leonardo inserted his penis into her vagina.[11] Edna felt pain but she could not do anything but cry. After satisfying his lust, Leonardo fixed himself and told Edna to stand up. When she refused, he pulled her up, made her sit on the chair and told her to put on her clothes and get back to her room.[12] Edna went to her room, wept and stayed there until six in the evening when Glorina told her to go downstairs. Leonardo then instructed Edna to watch the counter of the pension house. She stayed at the counter from six in the evening until two in the morning. Leonardo also stayed there until twelve midnight.[13]

Edna woke up at around six o'clock the following morning, May 12, 1994. She had some coffee and, as instructed, cleaned the counter.[14] At around eight o'clock, she saw the accused at the stairways. Leonardo asked her to make coffee for him in Room 206.[15] Out of fear, she obeyed and went to Room 206 to make coffee. Leonardo followed her inside and closed the door. As she was mixing the coffee in a glass, the accused embraced her. She fought back and slapped him. Leonardo slapped her back, got the gun from under the mattress of the bed and pointed it at her. He undressed her, raised her skirt, removed her underwear, and for the second time, succeeded in having carnal knowledge with her.[16]

Edna stayed at the pension house until May 16, 1994, when Leonardo and Josephine Biturin, who she later learned was his common-law wife, transferred her to another employer, Lorena Raymond.[17] Edna lost no time in revealing to Lorena her ordeal with the accused. Lorena and her uncle Ding Ocampo brought Edna to the National Bureau of Investigation (NBI) and her statements were taken.[18] She was also medically examined. Thereafter, Edna led some NBI agents to the pension house.[19]

When Edna testified in court, she was already staying with San Marcelino Barangay Chairman Alice Reyes Santos. She sought the barangay chairman's help because she has no other relatives in Manila. After she filed her complaint against the accused, Edna was given employment at the Manila City Hall. However, she did not last long in her work because some people who presented themselves as policemen pressured her into withdrawing the case against the accused.[20] She recalled that Atty. Bert Domingo,[21] then a councilor in the City of Manila, likewise offered her money and asked her to sign an Affidavit of Desistance.[22]

Elex Crelencia, an NBI senior agent, was the team leader of the NBI operatives that proceeded to the pension house on May 23, 1994.[23] His team included, among others, agents Tiempo, Paul Gino Rivera, Eric Isodoro and Nestor de Guzman.[24] When they reached the place, they were able to enter the pension house without any resistance from anybody. They found the accused inside Room 206 and Edna readily identified him as the one who raped her.[25] Leonardo asked the NBI agents if they have any warrant of arrest issued against him. They told him that there was a complaint for rape against him and they were just inviting him to the NBI office for questioning.[26] At the NBI office, they apprised him of his constitutional rights before they conducted their investigation.[27] However, Leonardo did not execute any statement.[28] The NBI then referred the case to the Department of Justice.[29]

Dr. Anabelle Solliman, a medico-legal officer of the NBI, recalled that on May 23, 1994, at four o'clock in the afternoon, she conducted a medical examination on Edna.[30] She found that Edna had laceration in her private organ at eight o'clock position. Such laceration was normally caused by sexual intercourse.[31] Prior thereto, the subject was a virgin.[32] She added that the laceration would heal in about three to four weeks.[33]

Dr. Aina Retizos, a resident physician at the Philippine General Hospital (PGH),[34] testified that on August 10, 1994, she conducted an examination on Edna who was complaining of vaginal discharge.[35] She found out that

the patient was suffering from a pelvic inflammatory disease, an infection of the female genital tract that includes the uterus and both fallopian tubes.[36] She testified that such vaginal discharge is unusual for a patient who had not sexual contact nor had foreign object inserted in her private organ.[37] She added that the pelvic inflammatory disease was probably caused by the sexual assault.[38]

Atty. Libertad Ramos-Rasa, Branch Clerk of Court of the Regional Trial Court of Manila, Branch 28, testified that on August 8, 1994, at the behest of defense counsel Atty. Domingo, an ocular inspection was made at D' Traveller's Pension House.[39] They found two (2) gun belts containing nineteen (19) live ammunitions under the mattress of a bed in Room 206.[40] The trial judge ordered the confiscation of such ammunitions without any objection from Atty. Domingo.[41]

The accused merely denied the accusations against him. He testified that he owns D' Traveller's Pension House located in 650 San Marcelino St., Ermita, Manila, a four-storey building with mezzanine. It is run like a hotel and is managed by him whenever he is in the Philippines, or by his sister-in-law or by his common-law wife, Josephine Biturin.[42] The accused is a permanent resident of Chicago, Illinois, and he has some businesses there. The accused testified that the pension house was run like a hotel, and lodgers were required to fill up their registration form where their names, company names and addresses were stated.[43] Room 204 was occupied by different lodgers at the time of the alleged rape.[44]

On May 23, 1994, Leonardo was sleeping in Room 206 when five (5) to seven (7) NBI agents woke him up. A gun was pointed at him and he was informed that a complaint for rape was filed against him.[45] He was invited to the NBI office but he refused, so they beat him up. However, he never submitted himself to a medical examination because he was detained.[46] He was brought to the NBI office at about six-thirty in the evening dressed only in briefs.[47] He was never allowed to communicate with his family until May 25, 1994.[48] He also denied owning a gun.[49]

Josephine Biturin testified that she and the accused have been living together since 1992. They have two children. She manages the Diamond Employment Agency owned by Leonardo. She likewise testified that Leonardo owns D' Traveller's Pension House in San Marcelino St., Ermita, Manila.[50]

Josephine met Edna when the latter applied as a househelper in the Diamond Employment Agency on May 9, 1994. She gave her a bio-data form to fill-up and interviewed her. She then told Edna that if she's interested to work, she could take her belongings and proceed to D' Traveller's Pension House in San Marcelino Street.[51]

Edna started to work at the pension house on May 9, 1994. When Josephine went to the pension house on May 9 and 10, she observed nothing unusual with Edna.[52] On May 16, 1994, she transferred Edna to another employer, Lorena Raymond in Sucat, Parañaque.[53]

Josephine recalled that on May 23, 1994, Leonardo was picked-up by some men from the pension house.[54] She searched for him in all police stations in Manila but failed to see him.[55] The following morning, May 24, 1994, she found Leonardo at the NBI detention cell. Leonardo told her to look for a lawyer.[56] When she came back in the afternoon, Leonardo informed her that the NBI agents wanted to settle the case for P300,000.00.[57] The accused instructed her to call up his brother and sister in Chicago, USA to raise money.[58] At twelve midnight, some NBI agents, one of whom was Armand Ardanas, went to the pension house, accompanied by one Renato Recto. Upon instructions from Leonardo, she gave money to Armand Ardanas and Renato Recto. Likewise, thirty-five thousand pesos (P35,000.00) was given to Edith Tanuco.[59]

Josephine also testified that per the receipts on their records, Room 204 was occupied by Mr. and Mrs. de Rivera on May 9, 1994. On May 10, 1994, the room was occupied by Mr. Bengador. On May 11, 1994, it was occupied

by Mr. Alex Azucena. On May 12, 1994, Room 204 was occupied by Mr. Teodoro Carreon.[60] Josephine further testified that Room 206 was being repaired on May 12, 1994.[61]

Merlyn Jupiter,[62] testifying for the defense, declared before the court that she was residing at D' Traveller's Pension House in San Marcelino St., Ermita, Manila. She worked as a babysitter of the child of accused. She said that she never met Edna at the pension house. She recalled that at about nine o'clock in the evening of May 24, 1994, she was at the Diamond Employment Agency in Agoncillo St., Malate, Manila. Edith Tanuco arrived and told Merlyn to go with her as they would move to another place of employment. Merlyn saw a red L-300 van parked at the back of the Diamond Employment Agency. Thinking that the passenger inside the van was their new employer, she went with Edith and they boarded the van. Inside the van were three males and one female. She asked Edith who were those men and the latter replied that they were secret agents. She later learned that the female passenger was Edna. They were brought to the NBI office where Edith told her that they were filing charges for rape against Leonardo their employer. Edith added that they would get big money out of it. Edith coached Merlyn what to say. One Mauro Garcia of the NBI prepared the statements that she signed.[63] Merlyn later retracted her statements before the NBI and filed an affidavit of desistance withdrawing the rape case against the accused.[64]

Elpidio Cabutan, Jr., Records Officer II at PGH, presented to the court the records of the birth of the child of Merlyn Jupiter, which showed that she gave birth to a baby boy on May 30, 1994, belying the allegation that she was raped by the accused on May 23, 1994.[65] The testimony of Cabutan was presented to bolster the accused's defense that the rape charges were planned and part of an extortion scheme.

Unimpressed with the accused's attempt to exculpate himself, the trial court rendered its decision, dated January 30, 1997, finding Leonardo guilty beyond reasonable doubt of the crime of rape for two counts. The dispositive portion of the decision read:

WHEREFORE, finding the accused, Leonardo Dumanlang y Enriquez guilty beyond reasonable doubt of the crime of rape in Criminal Case No. 94-137790 with the use of a gun, a deadly weapon, and with only one aggravating circumstance of the use of craft to facilitate the commission of the crime, he is hereby sentenced to suffer the ultimate penalty of death and to pay to the offended party, Edna B. Macassadu, moral damages in the sum of P50,000.00.

Likewise finding the said accused Leonardo Dumanlang Enriquez guilty beyond reasonable doubt of the crime of rape in Criminal Case No. 94-137791 with the use of a gun, a deadly weapon, and with only one aggravating circumstance of craft to aid him in the commission of the felony, he is hereby sentenced to suffer the extreme penalty of death and to also pay the offended party moral damages in the sum of P50,000.00.

Costs de oficio.[66]

Thereafter, the records of the cases were elevated to this Court for automatic review.

Accused-appellant raises the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING AND CONCLUDING THAT ACCUSED-APPELLANT USED A GUN IN RAVISHING THE HONOR OF COMPLAINANT EDNA MACASSADU y BRUNO ON TWO OCCASIONS OF AN (SIC) ALLEGED RAPES COMMITTED ALLEGEDLY AT ROOM 204 OF ACCUSED APPELLANT'S D' TRAVELLER'S PENSION HOUSE ON MAY 11 AND 12, 1994.

II

THE TRIAL COURT ACTED IN EXCESS OF ITS JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION AND HAVE DEMONSTRATED A DEGREE OF ZEAL, BIAS AND PARTIALITY IN THE PROSECUTION OF THE ALLEGED RAPE CASES AGAINST ACCUSED-APPELLANT, MORE PARTICULARLY IN THE USE OF GUN IN THE CONSUMMATION OF THE ALLEGED RAPE CASES OF THE ALLEGED COMPLAINANT EDNA MACASSADU y BRUNO.

III

THE TRIAL COURT GRAVELY ERRED WITH DUE RESPECT IN NOT SCRUTINIZING WITH CAUTION AND UTMOST CARE COMPLAINANT'S TESTIMONY WHICH IS RIDDLED WITH MATERIAL CONTRADICTION AND INCONSISTENCIES, INHERENTLY IMPROBABLE AND NOT IN ACCORD WITH THE COMMON OBSERVATION AND EXPERIENCE OF MANKIND.

IV

THE TRIAL COURT GRAVELY ERRED WITH DUE RESPECT IN TOTALLY DISREGARDING THE TESTIMONIAL AND DOCUMENTARY EVIDENCE OF THE DEFENSE TO WARRANT THE ACQUITTAL OF ACCUSED-APPELLANT.

V

THE TRIAL COURT GRAVELY ERRED IN TOTALLY DISREGARDING THE TESTIMONIAL AND DOCUMENTARY EVIDENCE OF THE OFFENSE.

VI

THE TRIAL COURT GRAVELY AND SERIOUSLY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR THE TWO (2) INFORMATIONS HE STAND CHARGED IN COURT, AND IN THE IMPOSITION OF TWO (2) SUPREME PENALTY OF DEATH, AND

VII

THE TRIAL COURT GRAVELY ERRED IN FINDING AND HOLDING AN ALLEGED OFFER OF COMPROMISE AN ACCUSED-APPELLANT IMPLIED ADMISSION OF HIS GUILT.[67]

We sustain accused-appellant's conviction.

Much of accused-appellant's contentions stressed on inconsistencies in Edna's statements, particularly, on the dates she was supposedly raped by accused-appellant. According to accused-appellant, Edna said in her previous statements, as well as in the information she provided to the physician who medically examined her, that she was raped by the accused on May 9 and 10, 1994, contrary to her testimony that she was ravished by the appellant on May 11 and 12, 1994.

This contention is without merit. Edna sufficiently explained during trial that when she gave the statements that she was raped on May 9 and 10, 1994, she was tensed and confused.[68] Errorless recollection of a harrowing experience cannot be expected of a witness, especially when she is recounting details of an experience so humiliating and so painful as rape.[69] Further, Edna testified that she remembered asking the NBI to correct the dates when she was giving her statements but apparently, no such change was made.[70] It is well-settled that between the contents of a sworn statement and testimony in open court, the latter generally prevails since ex-parte affidavits are often incomplete and inaccurate because by their nature, they are ordinarily prepared by a person other than the affiant.[71] The Court would like to stress that the exact date of the commission of the rape is not an essential element of the crime.[72] What is material is that the commission of the rape by accused-appellant against complainant is sufficiently proven.[73]

In the case before us, we find the alleged inconsistencies relied upon by accused-appellant in his bid for acquittal immaterial and irrelevant. Far from eroding her credibility, Edna's lapses are badges of truthfulness and candor and showed that her testimony was neither rehearsed nor contrived.[74] The supposed contradictions in Edna's statements cannot foreclose the fact that accused-appellant had carnal knowledge of her. The Court also noted that while recalling her ordeal, Edna broke down and cried, indicating that she was telling the truth.[75] Thus, she testified:

Atty. delos Santos

Q So, you followed the accused, Mr. Dumanlang, where did he lead you?

Court

Let the witness answer.

Witness

A At Room 204, ma'am.

Atty. delos Santos

Q When he led you to Room 204, what happened after that?

A He told me to sit down on a chair, ma'am.

Q Aside from the chair on which you sat down, what other things can you remember that you saw inside that room?

A There was a bed, ma'am.

Court

Where was that bed?

Witness

It was inside the room near the chair, sir.

Atty. delos Santos

Q Apart from the bed and the chair, what other things can you remember that you saw inside the room?

A There are no other things, ma'am.

Q When you sat yourself on that chair, what happened next?

A Leonardo Dumanlang went out, ma'am.

Q When he went out, what did you do?

A I was reading the rules and regulations, ma'am.

Q When did you see Mr. Dumanlang again, the accused?

A For a short moment he went down and in a little while he came back, ma'am.

Q Do you recall of any incident during that period from the time he left you at Room 204 until he came back, was there any incident that happened in between that period when you were inside the room?

A I heard Leonardo Dumanlang shouted to the boy in the pension house to go to the backyard for him to do something, ma'am.

Q When Leonardo Dumanlang came back to the room, what happened?

A He closed the door and locked it, ma'am.

Q Upon closing the door and locking it, what other things did he do?

A He told me after locking the door that he does not like to be answered with a HO, PO and OPO, ma'am.

Q What was your reaction when you saw Mr. Dumanlang, the accused, closed and locked the door?

A I was frightened, ma'am.

Q Why were you frightened?

A Because he already locked the door, and he was smiling and laughing while he was sitting in front of me, ma'am.

Q How many chairs were there inside the room?

A There were two (2) chairs, ma'am.

Q When you saw him smiling and laughing, what did you do, if any?

A I asked him, sir, why did you lock the door?

Q What was his answer?

A He said, "Oops, you said po, come here and kiss me."

Q When he told you that, what did you do?

A I stood up from where I was seated, ma'am.

Q Why did you stand up?

A Because I intended to go out, ma'am.

Q Were you able to go out?

A No, ma'am.

Q Why?

A He was forcing me to kiss him, ma'am, and when I was already standing up, he pushed me to the bed. (Witness demonstrating with her right hand that she was pushed to the bed with an arm.)

Q What happened next?

A He went right on top of me. He laid on top of me, ma'am.

Q When he laid on top of you, what did you do, what was your reaction?

A I was already crying, ma'am.

Q Why were you crying?

A I was frightened of him, ma'am.

Court

Let it appear on record that the complaining rape victim is crying.

Atty. delos Santos

Q Miss Witness, what were you wearing at that time?

Witness

A I was wearing pants with a buttoned blouse, ma'am.

Q What material is your pants made of?

A It is not a denim pants or maong, ma'am, it is a loose pants.

Q When he was laying of top of you, did you resist?

A Yes, ma'am, I was pushing him away from me.

Q Were you able to push him away?

A No, ma'am.

Q Why?

A He is much too big for me, ma'am, I cannot push him.

Court

Will you please stand up. Measure her. At this point, the Court ordered the witness to stand up for her height to be taken.

(Branch Clerk of Court measuring the height of the witness.)

Court

She is 4 feet 5½ inches.

How heavy are you?

Witness

90 lbs., sir.

Court

Please proceed.

Atty. delos Santos

When he was laying on top of you and you said you resisted him, what was he doing aside from laying on top of you?

Witness

He pointed a gun at me, ma'am.

Q Where did he point his gun, what part of your body?

A My chest, ma'am.

Q Do you know where that gun came from?

A He pulled the gun out from his waist, ma'am. (Witness pointing to her right hip.)

Q What was your reaction when you saw the gun and the gun was pointed on your chest?

A I was trembling out of fear, ma'am.

Q When the gun was being pointed at you, were there other things that happened?

Court

In view of the emotional state of the witness, we will recess for a while.

Prosecutor Viola

Yes, Your Honor.

(10 minutes recess)

(Session resumed)

Atty. delos Santos

What was the last question.

(Stenographer reading back the last question)

Atty. delos Santos

When the gun was being pointed at you, were there other things that happened?"

Witness

He unbuttoned my blouse, ma'am.

Atty. delos Santos

Can you remember how many buttons were unbuttoned?

A Three (3), ma'am.

Q After unbuttoning your blouse, what happened next?

A He kissed me, ma'am.

Q Where did he kissed you?

A He kissed me on my lips, on my cheeks, and he kissed me going down, ma'am.

Q While he was kissing you, was he doing other things?

A Yes, ma'am.

Q What are these things?

A He was sucking my breast, ma'am.

Q At that time, Miss Witness, were you wearing a brassiere?

A Yes, ma'am.

Q You said he was sucking your breast, was it on top of the bra or underneath the bra?

A he pulled up my brassiere ma'am.

Q What happened next after kissing and sucking your breast?

A He was removing my pants, ma'am.

Q At that time he was removing your pants, where was the gun?

A He was still holding the gun with one hand, ma'am.

Q Was he able to remove your pants?

A Yes, ma'am.

Q What happened after your pants were removed?

A He also removed my panty, ma'am.

Q Was it fully removed, what I mean is that, your panty was pulled down from your body?

A Yes, ma'am.

Q While he was doing this to you, what was your reaction?

A I was pleading to him, ma'am. I was begging to him.

Q What did you say to him?

A I told him to please pity me, but he was only laughing, ma'am.

Q So, when you were there with your panty having been pulled down, what happened after that?

A He also pulled down the zipper of his own pants, ma'am.

Q What happened when he pulled down his pants?

A He brought out his penis, ma'am.

Q What was your reaction when you saw his penis out of his pants?

A I tried to free "makaalpas" myself from him, but I could not, ma'am.

Q What happened after that?

A He tried to spread my thighs, ma'am.

Q What part of the body of the accused was he using in trying to forcibly open or spread your thighs?

A He was using his feet in pushing my thighs apart, ma'am.

Q Can you show us on the part of your body what do you mean by paa and demonstrate it to us?

A While I was laying down, both my thighs were closed together, (Witness demonstrating it by keeping her thighs closed together.) the accused used his knees

(Witness demonstrating it by using her knees) in pushing my thighs apart, ma'am.

Q Was he able to spread your two (2) thighs?

A Yes, ma'am.

Q Was he still holding a gun at that time?

A He already put down the gun, ma'am.

Q Where did he put this gun?

A the gun was placed in the bed at a distance where I cannot reach, but it is within his reach, ma'am.

Q When you saw that he was not already holding his gun, did you not resist or fight back?

A Because of the extent of my fear I was already trembling, I could not fight back anymore, ma'am.

Q What happened after that?

A He tried to insert his penis into my vagina, ma'am.

Q Did he succeed in inserting his penis into your vagina?

A Yes, ma'am.

Q Anong naramdaman mo . . . I am sorry, Your Honor.

Atty. Domingo

May I request, Your Honor, that I think what I would like to say is already understood, Your Honor.

Court

I cannot understand what you are about to say?

Atty. Domingo

May we request the Court to caution our audience or companions in the courtroom not to treat this matter as a laughing matter by laughing . . .

Atty. delos Santos

I asked for the apology. I was . . .

Court

They were not laughing about the testimony . . .

Atty. delos Santos

Because I asked the question in tagalog. I got carried away.

Atty. Domingo

In fact, Your Honor, the question was so important that it should have been understood very well by the witness were it not for the outburst of the other party.

Court

Observe proper decorum, otherwise, I will send you all out.

Please proceed.

Atty. delos Santos

How did you feel when he inserted his penis into your vagina?

Witness

I felt pain, ma'am.

Q Can you recall if how long was it that his penis was inside your vagina?

A It was just for a short while, ma'am.

Q You said that his penis was inserted into your vagina, was he doing other motions?

A He was kissing my lips, ma'am.

Q You said that it only took a short while, what happened after that, after he successfully penetrated your vagina?

A He removed it, ma'am.

Court

What did he remove?

Witness

He removed his penis from my vagina, sir.

Atty. delos Santos

When he removed his penis from your vagina, what did you do?

Witness

I was crying and trembling, ma'am.

Q What did the accused do?

A He was zipping up his pants ma'am.

Q What else happened, if any?

A He asked me to stand up, ma'am.

Q Did you obey him?

A No, ma'am, I did not immediately obey him.

Q Why did you not immediately obey him for you to stand up?

A I was still crying and I was still trembling, and I was afraid of him, ma'am.

Q When you did not follow him immediately, what did he do?

A He pulled "hinaltak" me up, ma'am.

Q What was your reaction when he pulled you up?

A The more that I became frightened, ma'am, I was again trembling some more.

Q Were you able to stand up after he pulled you up?

A I was made to sit, ma'am.

Q Where?

A On the bed, ma'am.

Q After that, what happened next?

A He told me to put on back my pants, ma'am.

Q Did you do as told?

A Yes, ma'am.

Q After that, what happened?

A After putting back on my pants, I stayed there and I was crying, ma'am.

Q Where was the accused at that time when you were putting back your pants?

A He already left the room, ma'am.

Q When he left the room, what did you do?

A I stayed there crying, ma'am.

Q How long did you stay inside the room crying?

A I cannot remember, ma'am.

Q Did you leave the room?

A Yes, ma'am, I left the room.

Q Where did you go?

A I was told to go to my room, ma'am.[76]

Edna did not waver in recalling the second rape incident. Her testimony was likewise made in a straight and categorical manner, hence:

Atty. delos Santos

Q Ms. Macassadu on the 12th of May, 1994, were you still inside d' traveller's pension house?

A Yes, ma'am.

Q What time did you wake up?

A About more or less 6:00 o'clock, ma'am.

Q Will you please clarify, if its 6:00 o'clock in the morning or in the evening?

A In the morning, ma'am.

Q What did you do after waking up?

A I took coffee, ma'am.

Q And what did you do next after having your coffee?

A I was told to clean downstairs, ma'am.

Q Who told you to clean downstairs?

A It was Ate Edith who told me to clean downstairs, ma'am.

Q What do you mean by downstairs, what part of the pension house?

A Inside the counter, ma'am.[77]

x x x

Q On that morning, did you see the accused, Leonardo Dumanlang?

A Yes, ma'am.

Q What time did you see him, and where?

A Around 8:00 o'clock on the stairway, ma'am.

Q When you say 8:00 o'clock, morning or in the evening?

A In the morning, ma'am.

Q What was your reaction when you saw him that morning?

A I was again trembling out of fear, ma'am.

Q Why were you trembling?

A Because of his threat that he will kill me, ma'am.

Q So, what did you do when you saw him?

A I continued on cleaning, ma'am.

Q Do you mean to say that, until -- up to the end of your cleaning, let's say for about an hour and when Leonardo Dumanlang went down, do you saw him -- is the accused stay (sic) with you for the rest of the time?

A I was told to make coffee, ma'am.

Q Who told you to make coffee?

A That rapist, ma'am.

(Witness pointing to the accused.)

Atty. Domingo

Please indicate on the record that the witness stood up and angrily pointed a finger to the accused, who is seated at the second row of the court room.

Atty. delos Santos

Q When he asked you to make coffee, where did you get the coffee or where did you make the coffee?

A He told me in the room, ma'am.

Q What room are you referring to?

A At room 206, ma'am.

Q What did you do after the accused asked you to go to room 206, and make coffee for him?

A Because of my great fear, I obey(ed), ma'am.

Q When you get (sic) inside the room and was preparing the coffee, what happened?

A He went inside and closed the door, ma'am.

Q How did you know that he was the one who entered the room?

A While I was mixing the coffee on a glass with my back facing towards the door, he came in and embraced

me, ma'am.

Q What did you do when he embraced you?

A I fought back and intended to throw at him the glass of coffee I was mixing, but it spilled when I was pushed in a bed, ma'am.

Q What did you do when he pushed you to the bed?

A I fought back and in so doing I was able to slap him, ma'am.

Q And what was his reaction when you slapped him?

A He also slapped me back and he got the gun and pointed the gun at me, ma'am.

Q Where did he get the gun?

A Under the mattress of the bed, ma'am.

Q When you saw the gun again, how did you feel?

A I was trembling out of my fear of him, ma'am.

Q What happened next?

A He undressed me, ma'am.

Q What were you wearing at that time?

A I was wearing skirt and blouse, ma'am.

Q Was he able to undress you totally?

A He raised up my skirt, ma'am.

Q What about your underwear?

A He also removed, ma'am.

Q Was he able to completely remove it?

A Yes, ma'am.

Q What happened after that?

A He again forced to put his penis to my vagina, ma'am.

Q Was he successful in inserting his penis into your vagina?

A Yes, ma'am.

Q Would you recall or remember if, for how long was his penis inside your vagina?

A Only for a short time, ma'am.

Q Aside from inserting his penis into your vagina, can you describe what other motions or what other actions was he doing to you?

A He mashed my breast, ma'am.

Q While he was doing this to you, was he still holding the gun?

A Not anymore, ma'am.

Q Where was the gun?

A It was beside him, ma'am.

Q After the act of raping you, what did you do?

A I was trembling out of fear, I just cried there, ma'am.

Q After that, what was the accused doing or what did he do?

A He zipped his pants and went out, ma'am.

Q When the accused, Leonardo Dumanlang, left you, where did you go?

A I stayed in that room still trembling out of fear, ma'am.[78]

Accused-appellant presented to the trial court several receipts tending to show that from May 9 to 12, 1994, Room 204 was occupied by different guests, thus making it impossible for the crime to have been committed. Josephine Biturin likewise testified that the second rape could not have taken place because Room 206 was under repair at that time.

We cannot accept accused-appellant's contention. The receipts adduced by the defense do not carry much worth for being self-serving. Being the owner of the pension house, accused-appellant could have easily fabricated such receipts. The failure of the defense to present any of the alleged occupants of Room 204 casts doubt on the veracity of those documents. Fitting is the trial court's observations and findings on this issue:

The accused claims that he could not have raped the complainant on May 11, 1994, in Room 204 of his pension house because on the said date, the said room was occupied by a lodger or guest as shown by the guest registration (Exh. "19") and the receipt of payment of the guest for the use of the room (Exh. "20"). These two documents are clearly not public documents (Section 19, Rule 132, Revised Rules on Evidence) and as private documents their due execution and authenticity should have been proven to make them admissible (section 20, Ibid.). No evidence to that effect has been adduced or even offered and, therefore, they cannot be admitted in evidence. The cashier, Julie Biturin (TSN, November 23, 1995, p. 12) should have been presented as the best witness.

The accused tried to show that the rooms of his pension house from May 1 to 24, 1994, were occupied by guests by presenting guest registrations and receipts of payment (Exhs. "19" to "21" with submarkings up to Exh. "21-QQ-1" and Exhs. "22" to "24"). Only Exhs. "19" and "20" are relevant and material as they involved Room 204 on May 11, 1994. The other guest registrations and receipts are not only inadmissible private documents but are utterly material. Whether or not the other rooms were occupied or not on May 11, 1994 or on other dates is absolutely irrelevant. The defense counsel evidently presented them as an attempt to show "entries in the course of business" under Section 43, Rule 130, Revised Rules on Evidence, as an exception to the requirement of personal knowledge. But the basis for admissions of these guest registrations and receipts had not been laid as required by the rule. The persons who executed them or made the entries and issued the receipt were not shown to be deceased or unable to testify.

Moreover, Exh. "19", the guest registration on May 11, 1994, is, as actually submitted to this Court, not the guest registration (being merely a xerox copy), but a reproduction of Exh. "20", the receipt of payment, covering the supposed face of the guest registration. Clearly, it was intended to mislead and conceal the true facts stated on the face of Exh. "19". The resort to this chicanery only confirms the testimony of the common-law wife, Josephine Biturin, that there is no time of "check in" in the said guest registration or that the check in and check out was at 4:00 P.M. (TSN, November 23, 1995, p. 8) after the rape was committed at about 2:00 o'clock P.M. On cross examination, Josephine Biturin testified that the time of the check out of the guest in Room 204 on May 12, 1994, is not indicated and that she did not know when he had checked in (TSN, November 23, 1995, p. 26).

The accused himself said that he could not remember the name of the guest (TSN, May 30, 1996, p.4); that when his common-law wife, (TSN, August 16, 1995, pp. 45-46) or on May 25, 1994 (according to the accused, TSN, April 12, 1996, p. 44), he remembered that Room 204 was occupied and told his common-law wife so (Ibid., p. 41) that he came to know that Room 204 was occupied on May 11, 1994, by a guest that same night when he checked the receipts when the cash was turned over to him (Ibid., p. 43), but he did not include this remembered fact in his counter-affidavit in the preliminary investigation of the cases before the Department of Justice, which could have strongly shown his innocence of the charges and would have caused his immediate release from detention, because he was "confused and tensed" (Ibid., p. 44), a most flimsy and unbelievable reason. The

accused was clearly evasive in his answers. The evidence then of the accused is not only inadmissible but has no probative worth. They betray a desperation on his part to grasp at straws to escape criminal liability.[79]

Anent the testimony that Room 206 was then being repaired, accused-appellant himself testified that he remembered asking someone to teach Edna to brew coffee at Room 206. Accused-appellant added that while the Room 206 was under renovation at that time, it could be occupied and he was in fact sleeping there.[80]

As regards the presence of other people in the pension house, the Court has ruled time and again that rape is no respecter of time or place as it can be committed in places ordinarily considered as unlikely.[81] It is not indispensable for rape to be committed in an isolated place as rapists bear no respect for place and time when they carry out their evil deed.[82]

In addition to the foregoing, the testimonial evidence is corroborated by the physician's findings of penetration. There is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge. Lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.[83] Indeed, a medical examination is not even an indispensable requirement in prosecutions for rape provided that the testimony of the victim is credible.[84]

Appellant's insinuation that Edna and her two companions filed a complaint for rape against him for the sole purpose of extorting money from him deserves scant consideration. The fact that the other complainants desisted from pursuing the case against accused-appellant after the supposed pay-off does not mean that Edna was not molested by accused-appellant. The alleged money given to an NBI agent and to Edith Tanuco in consideration for the withdrawal of the rape case against accused-appellant would not in anyway affect Edna's positive testimony that she was raped. If this were really true, what the accused should have done was to file criminal and administrative actions against the NBI agents who allegedly extorted money from him. It is not farfetched that the other two complainants did not pursue their cases, not because they succeeded in extorting money from accused-appellant, but because accused-appellant paid them to silence them. Edna testified that there was also an attempt to persuade her in withdrawing the case by offering money to her, only she did not give in to the pressure. There could be no other reason for her determination other than to seek justice for her plight.

It appears from the records that for his defense, accused-appellant merely denied he raped the victim. However, his denial could not prevail over the positive testimony of the victim who identified accused-appellant as the perpetrator of the crimes. It is axiomatic that denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credibility.[85] A denial, if unsubstantiated by clear and convincing evidence, is a self-serving negative evidence which cannot prevail over a positive declaration.[86] Here, accused-appellant was unable to overcome the strong evidence presented by the prosecution.

Nevertheless, accused-appellant was correct in saying that the trial court erred in imposing upon him the penalty of death.

During the trial of the case, the defense strongly objected to the testimony of Edna which tends to prove that the commission of rape was with the use of deadly weapon. Despite the fact that it was not alleged in the information, the trial court nevertheless admitted and appreciated such qualifying circumstance and used it as its basis in the determination of the penalty imposed.

The use of a weapon serves to increase the penalty and thus, said fact should be alleged in the information because of the accused's right to be informed of the nature and cause of the accusation against him.[87] The testimony as to the use of the gun cannot be considered to qualify the offense but only as a generic qualifying circumstance. Considering, however, that Article 63 of the Revised Penal Code provides that a single indivisible

penalty must be applied regardless of any mitigating or aggravating circumstances which may have attended the commission of the crime,[88] the use of a deadly weapon, even if proven, cannot modify the impossible penalty in the case at bar. Hence, the impossible penalty in this case should be reclusion perpetua.

Finally, the Court notes that while the trial court awarded moral damages in favor of the victim, it failed to award civil indemnity. Civil indemnity is separate and distinct from moral damages and is imposed upon the accused without need of proof other than the fact of the commission of the offense.[89] Hence, in addition to moral damages of Fifty Thousand (P50,000.00) Pesos for each count of rape, accused-appellant must be likewise be sentenced to pay an additional amount of Fifty Thousand (P50,000.00) Pesos for each count of rape as civil indemnity in accordance with prevailing jurisprudence.[90]

WHEREFORE, the Court AFFIRMS with MODIFICATION the appealed decision of the Regional Trial Court, Branch 28, Manila, in Criminal Cases Nos. 94-137790 and 94-137791. Accused-appellant Leonardo Dumanlang y Enriquez is found guilty beyond reasonable doubt of two (2) counts of rape and is hereby sentenced to suffer the penalty of Reclusion Perpetua on each count, with all the accessory penalties of the law, and to pay the victim Edna Macassadu y Bruno the amount of One Hundred Thousand (P100,000.00) Pesos as civil indemnity and One Hundred Thousand (P100,000.00) Pesos as moral damages. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

[1] May 11 and May 12, 1994.

[2] Rollo, p. 35.

[3] TSN, August 5, 1994, at 22.

[4] Id., at 22-23.

[5] Id., at 24-27.

[6] Id., at 28.

[7] Id., at 28-31.

[8] Id., at 30-31.

[9] Id., at 34-36.

[10] Id., at 37-39.

[11] Id., at 39-41.

[12] Id., at 43-46.

[13] Id., at 46-50.

[14] TSN, August 8, 1994, at 4-5.

[15] Id., at 6-8.

[16] Id., at 9-13.

[17] Id., at 18-20.

[18] Id., at 23-25.

[19] Id., at 30-31.

[20] Id., at 34-36.

[21] One of the defense counsels.

[22] TSN, August 8, 1994, at 36-38.

[23] Id., at 30.

[24] TSN, August 4, 1994, at 15.

- [25] *Id.*, at 16-18.
- [26] *Id.*, at 18-20.
- [27] *Id.*, at 23.
- [28] *Id.*, at 47.
- [29] *Id.*, at 24.
- [30] TSN, February 13, 1995, at 10-11.
- [31] *Id.*, at 13.
- [32] *Id.*, at 14.
- [33] *Id.*, at 15.
- [34] TSN, March 17, 1995, at 4.
- [35] *Id.*, at 8.
- [36] *Id.*, at 11-12.
- [37] *Id.*, at 13.
- [38] *Id.*, at 16.
- [39] TSN, February 27, 1995, at 9-10.
- [40] *Id.*, at 11.
- [41] *Id.*, at 11.
- [42] TSN, April 12, 1996, at 5-6.
- [43] *Id.*, at 19-20.
- [44] *Id.*, also at 32-34.
- [45] *Id.*, at 37-38.
- [46] *Id.*, at 39-40.
- [47] *Id.*, at 40-41.
- [48] *Id.*, at 43.
- [49] TSN, May 30, 1996, at 5.
- [50] TSN, August 16, 1995, at 7-9.
- [51] *Id.*, at 16-17.
- [52] *Id.*, at 18-23.
- [53] *Id.*, at 30-31.
- [54] *Id.*, at 36-37.
- [55] *Id.*, at 38-39.
- [56] *Id.*, at 45.
- [57] *Id.*, at 48-50.
- [58] *Id.*, at 50-51.
- [59] *Id.*, at 56.
- [60] TSN, November 23, 1995, at 11-15.
- [61] *Id.*, at 15-16.
- [62] The records showed that Merlyn Jupiter and Edith Tanuco, both employees at the pension house, filed rape charges against Leonardo Dumanlang. Later, however, they both executed affidavits of desistance withdrawing their case against the accused.
- [63] *Id.*, at 7-11.
- [64] *Id.*, at 18.
- [65] TSN of August 2, 1995.
- [66] Rollo, p. 75.
- [67] Rollo, at 120-122.

- [68] TSN, August 18, 1994, at 35-36.
- [69] People vs. Bayona, 327 SCRA 190 (2000).
- [70] TSN, August 18, 1994, at 16-19.
- [71] People vs. Lagarto, 326 SCRA 693 (2000).
- [72] People vs. Lim, 312 SCRA 550 (1999).
- [73] People v. Sancha, 324 SCRA 646 (2000).
- [74] People vs. Albior, 352 SCRA 35 (2001).
- [75] People vs. Ramos, 296 SCRA 559 (1998).
- [76] TSN, August 5, 1994, at 30-46.
- [77] TSN, August 8, 1994, at 4-5.
- [78] Id., at 6-14.
- [79] Rollo, pp. 34-36.
- [80] TSN, August 16, 1995, at 48-50.
- [81] People vs. Velasquez, 352 SCRA 455 (2001).
- [82] People vs. Geromo, 321 SCRA 355 (1999).
- [83] People vs. Cuadro, 352 SCRA 537 (2001).
- [84] People vs. Dichoson, 352 SCRA 56 (2001).
- [85] People vs. dela Cruz, G.R. No. 139626-27, June 26, 2001.
- [86] People vs. Geraban, G.R. No. 137048, May 24, 2001.
- [87] People vs. Siao, 327 SCRA 231 (2000).
- [88] People vs. Caniezo, G.R. No. 136594, March 13, 2001.
- [89] People vs. Flores, G.R. Nos. 134488-89, January 25, 2002.
- [90] People vs. Rodriguez, G.R. No. 133984, January 30, 2002.

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.