



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 February 2022** which reads as follows:*

“**G.R. No. 245899 (EEE v. People of the Philippines)**. – This resolves the Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner EEE (petitioner), praying for the reversal of the March 6, 2018 Decision² and January 23, 2019 Resolution³ of the Court of Appeals (CA) in CA-G.R. CEB-CR No. 02923, which affirmed the February 13, 2017 Decision⁴ of the Regional Trial Court (RTC), Branch 58, ██████████ Negros Occidental, finding her guilty beyond reasonable doubt of violation of Section 10(a) of Republic Act (R.A.) No. 7610, otherwise known as Special Protection of Children Against Abuse, Exploitation and Discrimination, and Providing Penalties for its Violation and for Other Purposes.⁵

Antecedents

In an Information⁶ dated September 2, 2010, petitioner was charged with violation of Section 10(a) of R.A. No. 7610, committed as follows:

That sometime in November 2007 in Barangay ██████████ ██████████ Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully and unlawfully, deceive and induce one [AAA], a minor at 13 years of age, to pose naked in front of a computer camera which caused her emotional distress and trauma to the damage and prejudice of the said child victim and in violation of the afore-cited law.

ACT CONTRARY TO LAW.⁷

¹ Rollo, pp. 4-16.

² Id. at 19-31. Penned by Associate Justice Edgardo L. Delos Santos (retired Member of this Court), with Associate Justices Edward B. Contreras and Louis P. Acosta, concurring.

³ Id. at 120-121.

⁴ Id. at 96-119. Rendered by Judge Amy Alabado Avellano.

⁵ An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes.

⁶ Rollo, p. 66.

⁷ Id.

On March 22, 2011, petitioner was arraigned and pleaded not guilty to the charge. After the pre-trial, trial on the merits ensued.

During the trial, AAA related that sometime in November 2007, at around 11 o'clock in the morning, she and her classmate CCC went to the house of their other classmate DDD to do research work. DDD is the daughter of petitioner, who owns Web Integra Internet Cafe, an internet shop located in their residence.

While AAA, CCC, and DDD were doing their research work, petitioner invited them to her bedroom, which was located at the back of the internet shop. Petitioner told them that her nephew had dengue, and asked for their assistance to raise money for her nephew by posing naked in front of the camera. AAA obliged out of her desire to help out, and because she felt ashamed since petitioner had allowed her to use the internet for her research work for free. AAA likewise relied on petitioner's promise to immediately delete the photographs.⁸

Using a digital web camera, petitioner first took provocative photographs of CCC and DDD. Then, petitioner took off her clothes and joined CCC and DDD. After which, petitioner shot a photograph of AAA scantily clad in her bra and panty. Next, petitioner directed AAA to take off her clothes and posed naked with the latter. Thereafter, petitioner ordered AAA to sit on the chair and to spread her legs, and then took her photograph.⁹

After two weeks, AAA went back to the internet shop to do research. Petitioner offered to give her money to pose naked again. AAA refused and never went back to petitioner's house.¹⁰

To AAA's surprise and dismay, on July 10, 2011, she saw her naked photographs which had been circulated *via* cellular phones in her city. Likewise, her neighbor showed these photographs to her mother, BBB. Enraged, BBB confronted her about the photographs. AAA narrated the incident to BBB. On July 12, 2011, AAA and BBB reported the incident to the authorities.¹¹

On the other hand, petitioner denied the allegations hurled against her. She claimed that she could not do such a thing to AAA and to her own daughter. She likewise denied posing naked with AAA and argued that the pictures may have been edited to make it appear as if she had posed naked.¹²

⁸ See TSN dated January 31, 2012, pp. 10-12.

⁹ Id. at 13-16.

¹⁰ Id. at 16.

¹¹ Id. at 18-19.

¹² *Rollo*, p. 22.

Ruling of the RTC

On February 13, 2017, the RTC rendered a Decision¹³ declaring petitioner guilty beyond reasonable doubt of violation of Section 10(a) of R.A. No. 7610. The RTC held that the prosecution proved all the elements of the said crime. Also, the RTC attributed authorship of AAA's nude photos to petitioner.¹⁴ It disposed of the case as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused [EEE] **GUILTY** of other acts of abuse under Section 10 (a), Article VI of Republic Act No. 7610. She is hereby sentenced to suffer the penalty of *prision mayor* in its minimum period or imprisonment of 6 years and 1 day to 8 years, to pay the offended party Php50,000.00 as moral damages, Php50,000.00 as civil indemnity, and Php25,000.00 as exemplary damages.

No pronouncement as to costs.¹⁵

Aggrieved, petitioner filed an appeal.

Ruling of the CA

In a Decision¹⁶ dated March 6, 2018, the CA affirmed petitioner's conviction. The CA agreed with the RTC that the prosecution proved all the elements for violation of Section 10(a) of R.A. No. 7610. It noted that AAA was thirteen (13) years old when the offense was committed. The act of taking the victim's nude pictures, which later circulated for the public to see, debased, degraded, and demeaned her intrinsic worth and dignity as a human being; and said act constitutes child abuse.¹⁷ However, the CA modified the penalty imposed by the RTC by applying the Indeterminate Sentence Law, and thereby imposing a minimum and maximum term of imprisonment. Furthermore, the CA increased the award of exemplary damages to deter the commission of similar egregious acts against children. The dispositive portion of the CA ruling reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The appealed decision of the Regional Trial Court, Branch 58, ██████████ ██████████ Negros Occidental dated February 13, 2017 in CRIM. CASE No. RTC-4483 is hereby **AFFIRMED**. However, the exemplary damages should be increased accordingly and the penalty should be imposed according to the Indeterminate Sentence Law.

Accordingly, herein [petitioner] [EEE] is hereby found **GUILTY** beyond reasonable doubt of *Other Acts of Abuse as defined and punished*

¹³ Id. at 96-119.

¹⁴ Id. at 111.

¹⁵ Id. at 119.

¹⁶ Id. at 19-31.

¹⁷ Id. at 24.

*under Section 10 (a), Article VI of Republic Act No. 7610. She is hereby sentenced to suffer the penalty of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum. She is further ordered to pay the offended party the amount of Php 50,000.00 as moral damages, Php 50,000.00 as civil indemnity and Php 100,000.00 as exemplary damages.*

SO ORDERED.¹⁸

Dissatisfied with the ruling, petitioner filed a Motion for Reconsideration, which the CA denied in its January 23, 2019 Resolution.¹⁹

Undeterred, petitioner filed the instant petition for review on *certiorari*.²⁰

Issue

The pivotal issue is whether or not petitioner is guilty beyond reasonable doubt of violation of Section 10(a) of R.A. No. 7610.

Seeking her exoneration from the charge, petitioner attacks AAA's credibility, claiming that the latter's testimony was irrelevant and inconsistent on material matters. She likewise questions why CCC, the classmate who was likewise photographed naked, never appeared in court to corroborate AAA's statements. Moreover, she argues that AAA's reactions are atypical of a child who had been victimized. She claims that AAA was seen smiling in the photographs, and was in a jovial mood for a long time after the incident. She further points out that AAA never reported the incident to anyone. Thus, she argues that assuming that there was a nude photoshoot, it transpired with AAA's consent and willingness. Finally, petitioner contends that the prosecution failed to prove that she is responsible for sending out or circulating AAA's nude photographs.²¹

On the other hand, the People of the Philippines, through the Office of the Solicitor General (OSG) counters that petitioner's act of manipulating AAA into taking off her clothes and posing in front of the camera, debased, degraded, and demeaned her intrinsic worth and dignity. The OSG stresses that AAA positively identified petitioner as the perpetrator. It ripostes that AAA's disposition during and immediately after her nude photographs were taken, do not negate petitioner's liability under Section 10(a) of R.A. No. 7610. Likewise, it retorts that AAA sufficiently explained her delay in reporting the incident. It also avers that petitioner's liability for spreading AAA's naked photographs is immaterial to her conviction under Section 10(a) of R.A. No. 7610.²²

¹⁸ Id. at 30.

¹⁹ Id. at 32-33.

²⁰ Id. at 4-16.

²¹ Id. at 7-9 and 11.

²² Id. at 49-50, 56 and 60.

Ruling of the Court

The petition is denied.

Petitioner violated Section 10(a) of R.A. No. 7610.

It is the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation, discrimination, and other conditions prejudicial to their development.²³ Likewise, the State shall exert every effort to promote the welfare of children and enhance their opportunities for a useful and happy life.²⁴ In all actions concerning children, their best interests shall always be the paramount consideration.²⁵ To achieve this end, Section 10(a) of R.A. No. 7610 punishes, among others, acts of exploitation and other acts prejudicial to a child's development, *viz.*:

Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.—

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

x x x x

Notably, Section 10(a) is a catch-all provision for acts of child abuse, cruelty or exploitation not otherwise covered by specific provisions in R.A. No. 7610.²⁶ For a conviction under the said provision to prosper, the prosecution must prove that (i) the victim is a child; (ii) the acts complained of constitute child abuse or are prejudicial to the development of the child-victim; and (iii) said acts are covered by the provisions of R.A. No. 7610.

In line with this, Section 3(b) of R. A. No. 7610 defines "child abuse" as follows:

Section 3. Definition of Terms. —

x x x x

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

²³ REPUBLIC ACT NO. 7610, Section 2.

²⁴ *Id.*

²⁵ *Id.*

²⁶ See *Lina Talocod v. People*, G.R. No. 250671, October 7, 2020.

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;**
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death. (Emphasis supplied)

Relatedly, to debase is to reduce the value, quality, or purity of something. On the other hand, to degrade is to lessen a person's or thing's character or quality;²⁷ while to demean is to lower one's status, condition, reputation, or character.²⁸ The offender's intention may be inferred from the manner in which he or she committed the act/s complained of.²⁹

In this case, petitioner manipulated and enticed AAA into posing nude. She deftly appealed to AAA's emotions, by telling the latter that her nephew was suffering from dengue, and needed money. She likewise feigned kindness by allowing AAA to use her internet cafe without charge, and by offering AAA free meals.³⁰ She deviously trapped AAA in a position where the latter felt beholden and pressured to agree to her request. Moreover, she assuaged AAA's fears by promising to immediately delete the photographs and not show them to anyone. She clearly took advantage of AAA's naiveté, and preyed on the latter's gullible and trusting nature. AAA was only thirteen years old when the incident happened, as established through her Certificate of Live Birth.³¹

Undoubtedly, petitioner's acts of directing AAA to pose provocatively, ordering her to expose her body, and then taking her nude photographs, debased, demeaned, and degraded AAA's intrinsic worth and dignity as a human being. Petitioner debased AAA's purity and innocence. Her deplorable acts likewise destroyed and demeaned AAA's character, who felt humiliated and disrespected. These acts which produced a lasting trauma on AAA prejudiced her normal growth and development.

In fact, AAA cried every time she was shown her nude photographs in court.³² Despite the lapse of time, her agony and humiliation still remained, as she related in court that "everytime I remember the incident[,] I'm still hurt. Since that happened, I strived hard to show to people that I'm a better person.

²⁷ *Joseph Delos Santos v. People*, G.R. No. 227581, January 15, 2020, citing, *Jabalde v. People*, 787 Phil. 255, 270 (2016), further citing Black's Law Dictionary 430 (8th ed. 2004).

²⁸ *Lina Talocod v. People*, supra note 26, citing *Jabalde v. People*, id. at 27.

²⁹ *Lina Talocod v. People*, id.

³⁰ See TSN dated April 5, 2016, p. 9.

³¹ *Rollo*, p. 91.

³² Id. at 58.

But they still look at me as someone who posed naked for money.”³³ Distraught and in tears, AAA also related that “I’m still hurting as of this time even though it happened a long time already. I still feel humiliated, embarrassed, ashamed to mingle with other people because they don’t have respect towards me. They think I am prostituting myself for the sake of money.”³⁴

Petitioner shall not be exonerated from the crime, even in the absence of proof of her complicity in circulating AAA’s nude photographs. It is important to stress that the child abuse against AAA was committed as soon as petitioner manipulated and influenced AAA into taking her clothes off, and then taking her photographs.

AAA’s behavior during and after the incident does not tarnish her credibility.

AAA’s attitude and deportment during and immediately after her nude photographs were taken do not negate petitioner’s liability under Section 10(a) of R.A. No. 7610.³⁵

First, AAA’s disposition in the photographs was due to the prodding of petitioner, who directed and controlled AAA’s poses. This is clear from AAA’s testimony:

The victim of this case is [in] distress and crying.

Q: Would you tell this Court what were you wearing in this picture?

A: Bra and panty.

Q: Why were you wearing bra and panty?

A: That was her first instruction.

Q: For you to wear bra and panty?

A: Yes.

x x x x

Q: Will you tell this Honorable Court what were you wearing in this second picture?

A: I am totally naked.

Q: How about the accused what was she wearing in this second picture?

A: She’s naked also.

Q: Please tell this Court why both of you were naked in this picture?

A: Because that’s what she directed us to do.

x x x x

³³ Id. at 117.

³⁴ See TSN dated April 5, 2016, p. 5.

³⁵ Rollo, p. 56.

Q: I would like to direct your attention to Exhibit "F".
Could you please tell this Court who is this on the picture?

A: That's me, Fiscal.

Q: Could you also tell this Court what were you wearing?

A: I am naked.

Q: [AAA], in this picture you are naked and sitting with your legs spread apart. Is that correct?

A: Yes, Fiscal.

Q: Why did you pose like this?

A: Because she told me to pose in that manner.³⁶

Second, AAA's delay in reporting the incident does not destroy her credibility. She satisfactorily explained that she did not immediately report the incident out of fear that her mother would get mad at her, and because petitioner promised to immediately delete the photographs and that nobody would find out about them.³⁷

It is settled that in cases involving violations of R.A. No. 7610, the victims are children of tender years, who with their simple, unsophisticated minds must not have fully understood and immediately realized the repercussions of the contemptible acts committed against them.³⁸ Consequently, one cannot expect a rational behavior or response from them.

Equally important, the assessment of the witness's credibility is a function within the office of the trial courts.³⁹ Assigning values to the witness's declarations as they testify is most competently performed by the trial judge on account of his or her unique opportunity to personally observe the witness.⁴⁰ Hence, unless the trial court overlooked important facts and circumstances that would substantially alter the results of the case, the Court shall give its assessment great weight and respect.

In the present case, the trial court regarded AAA's testimony as credible and convincing. Likewise, the CA affirmed the RTC's assessment and findings. On the other hand, the RTC and the CA disregarded petitioner's defenses as weak and unworthy of belief.⁴¹ The RTC even noted that the petitioner was obviously evasive, and pretended that she could not identify AAA from the photographs despite claiming to have seen the latter face-to-face many times. Strangely, the petitioner could not even identify herself or her daughter from the nude photographs.⁴²

³⁶ See TSN dated January 31, 2012, pp. 14-16.

³⁷ *Rollo*, p. 60.

³⁸ *People v. Barcelá*, 734 Phil. 332, 344 (2014).

³⁹ *Torres v. People*, 803 Phil. 480, 488 (2017).

⁴⁰ *Awat v. People*, 811 Phil. 700, 707 (2017).

⁴¹ *Rollo*, p. 117.

⁴² *Id.* at 112.

Furthermore, the failure of CCC to corroborate AAA's testimony is immaterial, as petitioner's liability for the acts has been proven with moral certainty through AAA's testimony. AAA positively identified petitioner as the one who ordered her to take off her clothes and pose nude in front of the camera, and as one of the naked persons in the photographs.

Penalty and Damages

A violation of Section 10(a) of R.A. No. 7610 is punishable by *prision mayor* in its minimum period. As correctly held by the CA, although R.A. No. 7610 is a special law, petitioner may still enjoy the benefits of the Indeterminate Sentence Law (ISL).⁴³ Thus, under the ISL, the maximum of the sentence shall be that which could be properly imposed in view of the attending circumstances, and the minimum shall be within the range of the penalty next lower than that prescribed by the Revised Penal Code.⁴⁴ Considering that there were no mitigating or aggravating circumstances attendant in this case, the CA correctly imposed a penalty of four (4) years, nine (9) months and eleven (11) days of *prision correccional* as minimum to six (6) years, eight (8) months, and one (1) day of *prision mayor* as maximum.

As for the damages, the Court affirms the award of moral damages and civil indemnity of ₱50,000.00 each. However, the Court finds that the award of exemplary damages of ₱100,000.00 is excessive. Although petitioner's act of taking AAA's nude photographs is reprehensible, an award of ₱100,000.00 as exemplary damages is imposed for the commission of more severe crimes.⁴⁵ Thus, the Court deems it just to reduce the exemplary damages to ₱50,000.00, to set a proper example and to deter the commission of similar dastardly acts against children.

In addition, the Court imposes a fine of ₱15,000.00 pursuant to Section 31(f),⁴⁶ Article XII of R.A. No. 7610.

⁴³ *Melvin Encinares v. People*, G.R. No. 252267, January 11, 2021.

⁴⁴ *Fantastico v. Malicse, Sr.*, 750 Phil. 120, 139-140 (2015).

⁴⁵ Such as Murder, Parricide, Serious Intentional Mutilation, Infanticide, Qualified Rape, Complex Crimes under Article 48 of the RPC, Special Complex Crimes, and other crimes involving the death of the victim where the penalty imposed is death, but is reduced to *reclusion perpetua* in view of R.A. No. 9346 or an Act Prohibiting the Imposition of the Death Penalty in the Philippines; Rebellion where the imposable penalty is *reclusion perpetua* and death occurs in the course of the rebellion. (*People v. Jugueta*, 783 Phil. 806 (2016)).

⁴⁶ **ARTICLE XII**

Common Penal Provisions

Section 31. *Common Penal Provisions.* –

x x x x

(f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

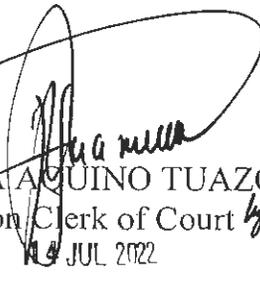
Finally, the Court imposes a legal interest of six percent (6%) *per annum* on all the amounts due, reckoned from the finality of the Court's Resolution until full satisfaction.⁴⁷

WHEREFORE, premises considered, the instant petition is **DENIED for lack of merit**. The March 6, 2018 Decision and January 23, 2019 Resolution of the Court of Appeals in CA-G.R. CEB-CR No. 02923 are **AFFIRMED with the following modifications**: (i) the award of exemplary damages is reduced to ₱50,000.00; and (ii) petitioner EEE is further **ORDERED to PAY** a fine of ₱15,000.00 .

All damages awarded shall earn a six percent (6%) legal interest *per annum* from the date of the finality of this Resolution until full payment.⁴⁸

SO ORDERED."

By authority of the Court:


 TERESITA AGUIÑO TUAZON
 Division Clerk of Court *by 7/14*
 13 JUL 2022

*ATTY. REMUS G. GULMATICO (reg)
 Counsel for Petitioner
 Room 4, 3rd Floor, JS Building
 cor. Galo-Lacson Sts., Bacolod City

*OFFICE OF THE SOLICITOR GENERAL (reg)
 134 Amorsolo Street
 1229 Legaspi Village
 Makati City

*EEE (reg)
 Purok Jasmin, Brgy. Balintawak
 Escalante City, 6124 Negros Occidental

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 58
 San Carlos City, Negros Occidental
 (Crim. Case No. RTC-4483)

COURT OF APPEALS (reg)
 Cebu City
 CA-G.R. CEB-CR No. 02923

JUDGMENT DIVISION (x)
 Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
 LIBRARY SERVICES (x)
 [For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
 OFFICE OF THE REPORTER (x)
 PHILIPPINE JUDICIAL ACADEMY (x)
 Supreme Court, Manila

*with copy of CA Decision dated 6 March 2018
 and Resolution dated 23 January 2019
Please notify the Court of any change in your address.
 GR245899. 2/16/2022(232)URES(m)

⁴⁷ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

⁴⁸ *People v. Valencia*, G.R. 234013, June 16, 2021.