



Republic of the Philippines  
Supreme Court  
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated April 19, 2022 which reads as follows:*

“G.R. No. 254477 (People of the Philippines, *Plaintiff-Appellee* vs. XXX,<sup>1</sup> *Accused-Appellant*). – Before the Court is an appeal<sup>2</sup> from the Decision<sup>3</sup> dated June 25, 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12481. The CA affirmed with modification the Decision<sup>4</sup> dated October 5, 2018 of Branch 124, Regional Trial Court (RTC), Caloocan City in Criminal Case No. C-99541 that convicted accused-appellant of the offense of Lascivious Conduct defined and penalized under Section 5(b), Article III of Republic Act (RA) No. 7610 or the *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

*The Antecedents*

Accused-appellant was charged under the following Amended Information<sup>5</sup> which reads:

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<sup>1</sup> The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”; Republic Act No. 9262, “An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes”; Section 40 of A.M. No. 04-10-11-SC, known as the “Rule on Violence Against Women and Their Children,” effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances. *People v. AAA* (G.R. No. 248777, July 7, 2020).

<sup>2</sup> See Notice of Appeal; *rollo*, pp. 30-31.

<sup>3</sup> *Id.* at 4-29. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Marlene B. Gonzales-Sison and Florencio Mallanao Mamauag, Jr., concurring.

<sup>4</sup> CA *rollo*, pp. 53-76. Penned by Presiding Judge Glenda K. Cabello-Marin.

<sup>5</sup> As culled from the CA Decision, *rollo*, pp. 5-6.

That on or about the 26<sup>th</sup> day of December 2016 x x x Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, who is a step-father of herein victim-private complainant, with lewd design, by means of force and intimidation, coercion and influence of an adult, did then and there willfully and feloniously commit other sexual abuse against private complainant AAA, 13 years old, a minor (DOB: February 13, 2003), by then and there dragging the minor to a room in the second floor of the latter's grandmother's house, by locking the door thereon when already inside, by forcibly laying the minor on the bed, by undressing her upper garments including the bra, by completely lying on her top, by kissing her neck, against her will and without her consent and which acts are prejudicial to the said minor complainant.

CONTRARY TO LAW.<sup>6</sup>

Upon arraignment, accused-appellant pleaded not guilty to the charge.<sup>7</sup>

*Version of the Prosecution*

The prosecution established that on December 25, 2016, victim AAA went with her mother and half-siblings to their grandmother's place to celebrate Christmas. The place has two houses separated by a wall. The first house belongs to AAA's aunt while the second is a two-storey house given to her mother. The next day, AAA was at the *sala* of the first house when her stepfather, accused-appellant, arrived and immediately dragged her to the second floor of the second house. Thereupon, accused-appellant locked the door of the room and pushed her towards the mattress. He sat down on the mattress, pulled AAA's *sando* above her breasts, and loosened her bra. He lay on top of her and then kissed her neck. At that point, AAA shouted and asked for the help of her mother, who was then at the kitchen of the first house. Her mother forcibly opened the door and saw accused-appellant on top of AAA.<sup>8</sup>

The next day, AAA's mother and aunt reported the incident to the police officers. Police Officer I Ronald E. Rueda, Police Officer I Jamel O. Dalioan, and Police Officer I Michael C. Burlaos went to the place of the incident. When accused-appellant came out of the house, they placed him under arrest.<sup>9</sup>

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<sup>6</sup> As culled from the CA Decision, *id.*

<sup>7</sup> *Id.* at 6.

<sup>8</sup> *Id.* at 6-7.

<sup>9</sup> *Id.* at 8



Police Chief Inspector (PCI) Jocelyn P. Cruz (PCI Cruz) conducted a medical examination on AAA which revealed the presence of deep healed laceration at 3 o'clock position on her hymen. She concluded that the "[anogenital] findings are indicative of blunt force penetrating trauma to the hymen." Furthermore, based on the ultrasound conducted on January 2, 2017, PCI Cruz concluded that AAA was pregnant; the fetus inside AAA's uterus was with gestational age of about 11 weeks. At that point, they found out that there were three prior incidents wherein accused-appellant succeeded in having carnal knowledge of AAA. Apparently, accused-appellant threatened AAA so she would not tell anyone about the incidents. On August 3, 2017, AAA gave birth to a baby girl.<sup>10</sup>

#### *Version of the Defense*

Accused-appellant told a different story. He alleged that on December 26, 2016, he was at their house waiting for his wife, AAA, and their youngest child to come home from their visit to their grandmother. He got tired of waiting and decided to fetch them. When he got to the place, he saw his brother-in-law, sister-in-law, and other male individuals having a drinking session. When accused-appellant asked about the whereabouts of his children, his brother-in-law angrily told him to go upstairs. Then, his brother-in-law aimed a *bolo* at him and accused him of molesting AAA. Before they could discuss the matter, several police officers arrived, brought accused-appellant to the police station and detained him.<sup>11</sup>

#### *Ruling of the RTC*

In the Decision<sup>12</sup> dated September 28, 2018, the RTC convicted accused-appellant of Section 5(b), Article III of RA 7610, *viz.*:

WHEREFORE, the court finds [accused-appellant] GUILTY beyond reasonable doubt of the crime of violation of Section 5 (b) of Republic Act No. 7610. Accordingly, he is hereby sentenced to suffer the penalty of *reclusion perpetua*.

Further, the [accused-appellant] is hereby ordered to pay fine in the amount of Ten Thousand Pesos (Php10,000.00), pursuant to Section 31(f) of Republic Act No. 7610.

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<sup>10</sup> Id.

<sup>11</sup> Id. at 9-10.

<sup>12</sup> CA *rollo*, pp. 53-76.

In addition, the court finds the [accused-appellant] civilly liable to AAA. Thus, the accused is hereby ordered to pay the said minor victim the following: a) the amount of Seventy-Five Thousand Pesos (Php75,000.00) as civil indemnity; b) the amount of Seventy-Five Thousand Pesos (Php75,000.00) as moral damages; and c) the amount of Seventy-Five Thousand Pesos (Php75,000.00) as exemplary damages, with interest thereon at the rate of 6% *per annum* from the time of the finality of this Decision until fully paid.

Costs against the accused.

SO ORDERED.<sup>13</sup>

The RTC found accused-appellant's defense of denial and alibi weak in contrast to the positive declaration of AAA and her mother that he committed the bestial act against AAA.<sup>14</sup>

Aggrieved, accused-appellant appealed to the CA and referred to the purported inconsistencies in the testimonies of AAA and her mother.<sup>15</sup>

#### *Ruling of the CA*

In the challenged Decision,<sup>16</sup> the CA modified the RTC Decision.<sup>17</sup> Like the RTC, the CA gave weight to the testimonies of AAA and her mother; it found them credible and straightforward. It also debunked accused-appellant's assertions regarding disparities which allegedly tainted AAA's testimony.<sup>18</sup> The *fallo* of the Decision<sup>19</sup> reads:

WHEREFORE, all premises considered, the instant appeal is hereby DENIED.

Accordingly, the *Decision dated 28 September 2018* of the Regional Trial Court, Branch 124, Caloocan City, in Criminal Case No. C-99541, finding accused-appellant XXX guilty beyond reasonable doubt of lascivious conduct in violation of Section 5(b) of Republic Act No. 7610, sentencing him to a prison term of

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<sup>13</sup> Id. at 75.

<sup>14</sup> Id. at 71-72.

<sup>15</sup> Id. at 12-13.

<sup>16</sup> *Rollo*, pp. 4-29.

<sup>17</sup> *CA rollo*, pp. 53-76.

<sup>18</sup> *Rollo*, p. 27.

<sup>19</sup> Id. at 4-29.

*reclusion perpetua*, and ordering him to pay the victim civil indemnity, moral damages and exemplary damages in the amount of P75,000.00 each, is AFFIRMED with the MODIFICATION that the fine is increased to P15,000.00.

SO ORDERED.<sup>20</sup>

Accused-appellant filed a Notice of Appeal.<sup>21</sup> The CA gave due course to the appeal and elevated the case records to the Court.<sup>22</sup>

In the Resolution<sup>23</sup> dated February 15, 2021, the Court noted the case records and directed the parties to file their respective supplemental briefs.

Both accused-appellant<sup>24</sup> and the People of the Philippines, through the Office of the Solicitor General,<sup>25</sup> manifested that they would no longer file supplemental briefs.

#### *The Issue*

The issue to be resolved is whether the prosecution proved accused-appellant's guilt beyond reasonable doubt.

#### *The Court's Ruling*

The appeal is not meritorious.

The Court affirms the conviction with modification as to the penalty.

Settled is the rule that the trial court's factual findings on the credibility of witnesses are accorded the highest weight and respect by the appellate courts. Accordingly, it is given the best opportunity to observe up close the manner by which these witnesses testified, as well as their demeanor while testifying. In the absence of a clear showing that the trial court overlooked or misconstrued some material facts or committed grave abuse of discretion, the appellate court will not disturb such factual findings. This rule becomes even more compelling when the CA concurs with the RTC as in the present case.<sup>26</sup>

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<sup>20</sup> Id. at 28.

<sup>21</sup> Id. at 30-31.

<sup>22</sup> Id. at 33.

<sup>23</sup> Id. at 35-36.

<sup>24</sup> Id. at 38-40.

<sup>25</sup> Id. at 44-45.

<sup>26</sup> *People v. XXX*, G.R. No. 227848 (Notice), February 5, 2020.

It is undisputed that at the time of the commission of the offense charged, AAA was below 18 years of age.<sup>27</sup> Section 5(b), Article III of RA 7610 is called into application. It reads:

Section 5. *Child Prostitution and Other Sexual Abuse.* — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; [.]

x x x x

Before an accused may be held criminally liable for Lascivious Conduct, the requisites of the crime of Acts of Lasciviousness penalized under Article 336 of the Revised Penal Code (RPC) must be established in addition to the requisites of Sexual Abuse under Section 5(b), Article III of RA 7610.

Sexual abuse has the following elements: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) that child, whether male or female, is below 18 years of age.<sup>28</sup>

Under paragraph (h), Section 2 of the Implementing Rules and Regulations of RA 7610, “lascivious conduct” is defined as the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks with the intent to

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<sup>27</sup> See *rollo*, p. 6.

<sup>28</sup> *Dela Cruz v. People*, G.R. No. 245516, June 14, 2021.

abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, among others. On the other hand, “other sexual abuse” is construed to cover not only a child who is abused for profit, but also one who engages in lascivious conduct through the coercion or intimidation by an adult.<sup>29</sup>

Corollary, Article 336 of the RPC defines and penalizes Acts of Lasciviousness as follows:

Article 336. *Acts of lasciviousness.* — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prisión correccional*.

All the elements of the crime charged are present in this case.

AAA was only 13 years old when the incident occurred.<sup>30</sup> Both the RTC and CA found her narration, as corroborated by the testimony of her mother, to be straightforward, categorical and convincing.<sup>31</sup> AAA testified that on December 26, 2016, accused-appellant grabbed her by the arm, and dragged her towards the bedroom located on the second floor of their house. Inside the room, accused-appellant pushed her towards the mattress, undressed her by pulling her *sando* above her breasts, and then loosened her bra. He then lay on top of AAA and kissed her on the neck. She also revealed that she did not disclose her ordeal to anyone, including her mother, because of the threats made by accused-appellant.<sup>32</sup> Not only did accused-appellant threaten the lives of AAA’s mother and siblings if she disclosed to anyone his bestiality,<sup>33</sup> he also took advantage of his moral ascendancy as AAA’s stepfather.<sup>34</sup> In several occasions, the Court has consistently given full weight and credence to a child’s testimony as youth and immaturity are badges of truth and sincerity.<sup>35</sup> As discussed by the CA:

It is clear from the foregoing testimonies that [accused-appellant] committed lascivious conduct when he pulled AAA’s *sando* above her breasts, loosened her brassiere, [lay] on top of her and kissed her neck during the incident in question, thus satisfying the first element of the offense charged. Lascivious conduct, as

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<sup>29</sup> *People v. XXX*, G.R. No. 230981, July 15, 2020.

<sup>30</sup> *Rollo*, p. 6.

<sup>31</sup> *Id.* at 27.

<sup>32</sup> *Id.* at 7.

<sup>33</sup> *Id.* at 9.

<sup>34</sup> See *People v. XXX*, supra note 29.

<sup>35</sup> *Dela Cruz v. People*, supra note 28.

defined under Section 2 (h) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases means “*the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person.*” The fact that [accused-appellant] forcibly dragged AAA inside the bedroom of the second floor of the second house, locked the door and pushed her towards the mattress forcing her to lie down unmistakably shows his intent to abuse her. (Emphasis in the original.)<sup>36</sup>

Meanwhile, under Section 5(b), Article III of RA 7610, a child is considered subjected to “other sexual abuse” when the child is subjected to lascivious conduct under the coercion and influence of any adult. Under the circumstances, intimidation need not be irresistible. It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. This is especially true in the case of young, innocent, and immature girls who could not be expected to act with equanimity of disposition and with nerves of steel. Young girls cannot be expected to act like adults under the same circumstances to have the courage and intelligence to disregard the threat.<sup>37</sup>

Here, as aptly observed by the RTC, accused-appellant employed force and intimidation upon AAA. The fact that accused-appellant is AAA’s stepfather played a significant role for him to satisfy his lustful desires.<sup>38</sup>

Besides, accused-appellant’s bare denial of the allegations against him must fail considering the detailed, consistent, and categorical testimony of the witnesses. The positive identification of accused-appellant, without any showing of ill motive on the part of the prosecution witnesses, should prevail over the former’s alibi and denial. Being self-serving and negative, accused-appellant’s denial is inherently weak and is looked upon with great disfavor. It cannot be given more evidentiary weight than the testimony of AAA.<sup>39</sup>

The penalty to be imposed for Lascivious Conduct under Section 5(b) of RA 7610 is *reclusion temporal* in its medium period to *reclusion perpetua*. In view of the alternative circumstance of

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<sup>36</sup> *Rollo*, p. 22.

<sup>37</sup> *Dela Cruz v. People*, supra note 28.

<sup>38</sup> See *People v. XXX*, supra note 29.

<sup>39</sup> *People v. XXX*, supra note 26.



relationship taken against accused-appellant, which is always aggravating, and in the absence of any mitigating circumstance to offset the same, the maximum penalty to be imposed of *reclusion perpetua* is deemed proper.<sup>40</sup>

As to the civil indemnities, in *People v. Tulagan*,<sup>41</sup> the Court held that in Lascivious Conduct under Section 5(b) of RA 7610, when the penalty of *reclusion perpetua* is imposed, and the award of civil indemnity, moral damages and exemplary damages is ₱75,000.00 each. Thus:

For the sake of consistency and uniformity, We deem it proper to address the award of damages in cases of Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5 (b) of R.A. No. 7610, and Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of R.A. No. 7610. Considering that the imposable penalties for the said two crimes are within the range of *reclusion temporal*, the award of civil indemnity and moral damages should now be fixed in the amount of P50,000.00 each. The said amount is based on *People v. Jugueta* which awards civil indemnity and moral damages in the amount of P50,000.00 each in cases of homicide where the imposable penalty is *reclusion temporal*. In case exemplary damages are awarded due to the presence of any aggravating circumstance, to set a public example, or to deter elders who abuse and corrupt the youth, then an equal amount of P50,000.00 should likewise be awarded.

The said award of civil indemnity, moral damages and exemplary damages should be distinguished from those awarded in cases of: (1) Acts of Lasciviousness under Article 336 of the RPC where the imposable penalty is *prision correccional*, the amount of civil indemnity and moral damages should now be fixed at P20,000.00 while exemplary damages, if warranted, should also be P20,000.00; (2) Sexual Assault under paragraph 2, Article 266-A of the RPC where the imposable penalty is *prision mayor*, the award of civil indemnity and moral damages should be fixed at P30,000.00 each, while the award of exemplary damages, if warranted, should also be P30,000.00 pursuant to prevailing jurisprudence; and (3) Lascivious conduct under Section 5 (b) of R.A. No. 7610, when the penalty of *reclusion perpetua* is imposed, and the award of civil indemnity, moral damages and exemplary damages is P75,000.00 each.<sup>42</sup>

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<sup>40</sup> Id.

<sup>41</sup> G.R. No. 227363, March 12, 2019.

<sup>42</sup> Id.



Here, accused-appellant is liable to pay ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. He is also meted out a fine of ₱15,000.00, pursuant to Section 31(f) of RA 7610. The monetary awards shall earn legal interest at a rate of six percent (6%) *per annum* from the date of finality of this Resolution until full payment.<sup>43</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated June 25, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 12481 is **AFFIRMED** with **MODIFICATION**. Accused-appellant XXX is found guilty beyond reasonable doubt of Lascivious Conduct under Section 5(b), Article III of Republic Act No. 7610. He is sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of ₱15,000.00. He is also **ORDERED** to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

The monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.

**SO ORDERED.**” *Gaerlan, J., on official leave.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court 

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>43</sup> *People v. XXX*, supra note 26.



The Solicitor General  
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CA-G.R. CR-HC No. 12481)

The Hon. Presiding Judge  
Regional Trial Court, Branch 124  
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(Crim. Case No. C-99541)

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