



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 1, 2022** which reads as follows:*

“**G.R. No. 259715 (XXX259715<sup>1</sup>**, Petitioner *v.* **PEOPLE OF THE PHILIPPINES**, Respondent). — This Court resolves a Petition for Review on *Certiorari* assailing the Court of Appeals’ (CA) Decision<sup>2</sup> dated May 28, 2021 in CA-G.R. CR No. 03528 which affirmed the Regional Trial Court’s (RTC) Joint Decision finding XXX259715 (petitioner) guilty of two (2) counts of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act (RA) No. 7610<sup>3</sup>, and one count of Lascivious conduct under Section 5(b) of RA No. 7610.

After a review of the records, the Court resolves to **DENY** the Petition for failure to sufficiently show that the CA committed any reversible error as to warrant the exercise of the Court’s appellate jurisdiction. As the CA and the RTC aptly ruled, the petitioner’s act of making the victim touch his penis on three (3) separate occasions constitute lewdness and were accomplished with intent to abuse the victim and/or gratify his sexual desire. However, the Court finds it proper to modify the nomenclature of the offense and award of damages. In

<sup>1</sup> Modified pursuant to SC Administrative Circular No. 83-15 dated July 27, 2015 (*Re: Protocols and Procedures in the promulgation, publication, and posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names*), in relation to R.A. No. 7610, R.A. No. 8508, R.A. No. 9208, R.A. No. 9262, and R.A. No. 9344. Fictitious initials are instead used to represent the victims. Likewise, the personal circumstances or other information tending to establish or compromise their identities, as well as those of their immediate family or household members shall not be disclosed. The place of the incident is also blotted out as it tends to establish or compromise the victim’s identity.

<sup>2</sup> *Rollo*, pp. 67-90.

<sup>3</sup> Entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992.

*People v. Tulagan*,<sup>4</sup> the Court clarified that if the victim is under 12 years of age, the crime should be designated as “*Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of R.A. No. 7610.*” Here, it is undisputed that the victim was only 8 years old when the crimes were committed. Hence, the petitioner should be held liable of three (3) counts of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of RA No. 7610. Also in *Tulagan*,<sup>5</sup> the Court ruled that the victim is entitled to ₱50,000.00 civil indemnity, ₱50,000.00 moral damages, and ₱50,000.00 exemplary damages. Lastly, the imposable penalty under Section 5(b) of Republic Act No. 7610 is *reclusion temporal* in its medium period. In this case, the CA and the RTC correctly fixed the indeterminate sentence at twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months, and twenty (20) days of *reclusion temporal*, as maximum, for each count.

**FOR THESE REASONS**, the Petition is **DENIED**. The Court of Appeals’ Decision dated May 28, 2021 in CA-G.R. CR No. 03528 is **AFFIRMED** with **MODIFICATIONS**. Petitioner XXX259715 is found guilty of three (3) counts of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of RA No. 7610 and is sentenced to suffer the indeterminate penalty of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum, for each count. The petitioner is ordered to pay the victim ₱50,000.00 civil indemnity, ₱50,000.00 moral damages, and ₱50,000.00 exemplary damages, for each count, which shall all earn interest at the rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

The Court resolves to **GRANT** petitioner’s motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

**SO ORDERED.**” (Kho, Jr., J., on leave)

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court <sup>nm/ty</sup>  
24 MAY 2023

<sup>4</sup> G.R. No. 227363, March 12, 2019, 896 SCRA 307, 367–368.

<sup>5</sup> G.R. No. 227363, March 12, 2019, 896 SCRA 307, 441.

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PRISON No. N219P-1998 DORM 7D2  
Petitioner  
c/o The Director  
Bureau of Corrections  
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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 58  
San Carlos City, Negros Occidental  
(Crim. Case Nos RTC-16-6200-6202)

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Supreme Court, Manila

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CA-G.R. CEB-CR No. 03528

\*with copy of CA Decision dated May 28, 2021  
*Please notify the Court of any change in your address.*  
GR259715. 08/01/2022(11)URES(m)

