



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

VAN CLIFFORD TORRES y G.R. No. 206627
SALERA,

Petitioner,

Present:

CARPIO, *J.*, *Chairperson*,
VELASCO, JR.,*
PERALTA,
MENDOZA, and
LEONEN, *JJ.*

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
18 JAN 2017

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DECISION

LEONEN, J.:

Through this Petition for Review on Certiorari,¹ petitioner Van Clifford Torres y Salera (Torres) challenges the Court of Appeals Decision² dated August 11, 2011 and Resolution³ dated February 22, 2013 in CA-G.R. CEB-CR No. 00481. The assailed judgments affirmed the Regional Trial

* Designated additional member per Special Order No. 2416-A dated January 4, 2017.

¹ *Rollo*, pp. 4–18.

² *Id.* at 24–34. The Decision was penned by Associate Justice Edgardo L. Delos Santos and concurred in by Associate Justices Ramon Paul L. Hernando and Victoria Isabel A. Paredes of the Twentieth Division, Court of Appeals, Cebu.

³ *Id.* at 21–22. The Resolution was penned by Associate Justice Edgardo L. Delos Santos and concurred in by Associate Justices Ramon Paul L. Hernando and Marilyn B. Lagura-Yap of the Special Former Twentieth Division, Court of Appeals, Cebu.

Court Decision dated June 5, 2006, which convicted Torres for violation of Section 10(a) of Republic Act No. 7610.⁴

In an Information dated June 9, 2004 filed before Branch 1 of the Regional Trial Court of Tagbilaran City, Bohol, Torres was charged with other acts of child abuse under Section 10(a) of Republic Act No. 7610:⁵

That on or about the 11th day of November, 2003, in the municipality of Clarin, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to harm and humiliate, did then and there, willfully, unlawfully and feloniously abuse, slap and whip AAA, a 14 year old minor (born on June 5, 1989) with a T-shirt hitting his neck and shoulder and causing him to fall down on the stairs of the barangay hall which acts are humiliating and prejudicial to the development of the victim and are covered by Article 59 of Pres. Decree 603, as amended; to the damage and prejudice of the said victim in the amount to be proved during trial.⁶

Upon arraignment, Torres pleaded not guilty.⁷ Trial on the merits ensued.⁸

The prosecution presented the victim AAA, AAA's aunt and uncle, Dr. Vicente Manalo Jr., and Barangay Captain Hermilando Miano as witnesses to testify on the alleged incident.⁹ The prosecution established the following facts during trial:

CCC, AAA's uncle, previously filed a complaint for malicious mischief against Torres, who allegedly caused damage to CCC's multicab.¹⁰ AAA witnessed the alleged incident and was brought by CCC to testify during the barangay conciliation.¹¹

On November 3, 2003, CCC and AAA were at the barangay hall of Clarin, Bohol waiting for the conciliation proceedings to begin when they chanced upon Torres who had just arrived from fishing.¹² CCC's wife, who was also with them at the barangay hall, persuaded Torres to attend the conciliation proceedings to answer for his liability.¹³ Torres vehemently

⁴ Id. at 33.

⁵ Special Protection of Children Against Abuse, Exploitation, and Discrimination Act (1992).

⁶ *Rollo*, p. 24.

⁷ Id. at 25.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

denied damaging CCC's multicab.¹⁴ In the middle of the brewing argument, AAA suddenly interjected that Torres damaged CCC's multicab and accused him of stealing CCC's fish nets.¹⁵

Torres told AAA not to pry in the affairs of adults. He warned AAA that he would whip him if he did not stop.¹⁶ However, AAA refused to keep silent and continued to accuse Torres of damaging his uncle's multicab. Infuriated with AAA's meddling, Torres whipped AAA on the neck using a wet t-shirt.¹⁷ Torres continued to hit AAA causing the latter to fall down from the stairs.¹⁸ CCC came to his nephew's defense and punched Torres. They engaged in a fistfight until they were separated by Barangay Captain Hermilando Miano.¹⁹ Torres hit AAA with a wet t-shirt three (3) times.²⁰

Based on the physical examination conducted by Dr. Vicente Manalo, Jr., AAA sustained a contusion.²¹

After the prosecution rested its case, the defense presented the following version of the incident:

Torres testified that he had just arrived tired from fishing when CCC badgered him to answer for the damage he had allegedly caused to CCC's multicab. AAA abruptly interrupted the heated discussion between the two men.²² Angered by what AAA had done, Torres told AAA to stop making unfounded accusations or he would be forced to whip him. AAA called Torres' bluff, which further provoked Torres. Torres attempted to hit AAA but was thwarted by the timely intervention of CCC, who suddenly attacked him.²³

Torres claimed that CCC filed this case to preempt him from filing a complaint for physical injuries against CCC.²⁴ He also claimed that he tried to settle the matter with CCC and CCC's wife.²⁵ However, the parties failed to reach an agreement due to the unreasonable demands of the spouses.²⁶

On June 5, 2006, the Regional Trial Court convicted Torres, thus:

¹⁴ Id.

¹⁵ Id. at 25–26.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 31.

²¹ Id. at 26.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id.

²⁶ Id.

WHEREFORE, premises considered, this Court finds VAN CLIFFORD TORRES y Salera, the accused[,] GUILTY beyond reasonable doubt of Other Acts of Child Abuse under Section 10, paragraph A of Republic Act No. 7610 and applying in his favor the beneficial provisions of The Indeterminate Sentence Law, he is hereby imposed the indeterminate sentence of imprisonment of SIX (6) YEARS, the maximum period of prison correccional as minimum to EIGHT (8) YEARS of prison mayor as maximum, the accessory penalties provided by law and to pay the costs. Van Clifford Torres y Salera is also imposed a penalty of FINE of FIVE THOUSAND PESOS (P5,000) pursuant to Section 31, Letter f, RA 7610. The Court credits Van Clifford Torres y Salera his preventive imprisonment in the service of his penalty pursuant to Art. 29 [of] the Revised Penal Code as Amended.

SO ORDERED.²⁷

Torres appealed before the Court of Appeals.²⁸ He argued that the prosecution failed to establish all the elements of child abuse and that his guilt was not proven beyond reasonable doubt.²⁹ He also questioned the lower court's jurisdiction over the case.³⁰

In its Decision³¹ dated August 11, 2011, the Court of Appeals affirmed the Regional Trial Court Decision, albeit with modification as to the penalty:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby DENIED. The Decision dated 5 June 2006 promulgated by the Regional Trial Court of Bohol, Branch 1 in Tagbilaran City in Crim. Case No. 12338 is AFFIRMED with MODIFICATION that the accused-appellant is sentenced to five (5) years, four (4) months and twenty-one (21) days of *prision correccional* as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor* as maximum.

SO ORDERED.³² (Emphasis in the original)

Torres moved for reconsideration, but the Motion was denied in the Court of Appeals Resolution³³ dated February 22, 2013.

Aggrieved, Torres filed before this Court this Petition for Review on Certiorari.³⁴

²⁷ Id. at 27.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Id. at 24–34.

³² Id. at 33–34.

³³ Id. at 21–22.

³⁴ Id. at 4–18.

On October 7, 2013, respondent People of the Philippines, through the Office of the Solicitor General, filed a Comment,³⁵ to which petitioner filed a Reply³⁶ on February 7, 2014.

Petitioner raises the following issues for this Court's resolution: (1) whether the Court of Appeals erred in sustaining his conviction on a judgment premised on a misapprehension of facts; and (2) whether the Court of Appeals erred in affirming his conviction despite the failure of the prosecution to prove his guilt beyond reasonable doubt.³⁷

Petitioner invites this Court to review the factual findings on the ground that the judgment was rendered based on a misapprehension of facts. He argues that both the Regional Trial Court and the Court of Appeals disregarded certain material facts, which, if properly considered, would have justified a different conclusion.³⁸ In particular, petitioner challenges the credibility of the prosecution's witnesses.³⁹ He highlights the inconsistencies in their testimonies and their failure to clearly establish the presence of CCC's wife during the incident.⁴⁰

Petitioner also calls attention to the partiality of the prosecution's witnesses, majority of whom are relatives of the victim.⁴¹ He believes that the prosecution's witnesses could not have given a true narrative of the incident because of their obvious bias.⁴² Hence, their testimonies were undeserving of any weight and credit.

On the other hand, respondent argues that the questions raised by petitioner were questions of fact, which are generally proscribed in a petition for review under Rule 45.⁴³

We affirm petitioner's conviction. The act of whipping a child three (3) times in the neck with a wet t-shirt constitutes child abuse.

It is a fundamental rule that only questions of law may be raised in a petition for review on certiorari under Rule 45.⁴⁴ The factual findings of the

³⁵ Id. at 39-51.

³⁶ Id. at 53-61.

³⁷ Id. at 7.

³⁸ Id. at 10.

³⁹ Id.

⁴⁰ Id. at 7-10.

⁴¹ Id. at 14.

⁴² Id.

⁴³ Id. at 42-44.

⁴⁴ RULES OF COURT, Rule 45, sec. 1.

trial court, especially when affirmed by the Court of Appeals, are generally binding and conclusive on this Court.⁴⁵ This Court is not a trier of facts.⁴⁶ It is not duty-bound to analyze, review, and weigh the evidence all over again in the absence of any showing of any arbitrariness, capriciousness, or palpable error.⁴⁷ A departure from the general rule may only be warranted in cases where the findings of fact of the Court of Appeals are contrary to the findings of the trial court or when these are unsupported by the evidence on record.⁴⁸

The assessment of the credibility of witnesses is a function properly within the office of the trial courts.⁴⁹ It is a question of fact not reviewable by this Court.⁵⁰ The trial court's findings on the matter are entitled to great weight and given great respect and "may only be disregarded . . . if there are facts and circumstances which were overlooked by the trial court and which would substantially alter the results of the case[.]"⁵¹

This Court finds no reason to disturb the factual findings of the trial court. The trial court neither disregarded nor overlooked any material fact or circumstance that would substantially alter the case. The presence or absence of one person during the incident is not substantial enough to overturn the finding that petitioner whipped AAA three (3) times with a wet t-shirt.⁵²

Assuming, without admitting, that petitioner did whip AAA, petitioner argues that it should not be considered as child abuse because the law requires intent to abuse.⁵³ Petitioner maintains that he whipped AAA merely to discipline and restrain the child "from further intensifying the situation."⁵⁴ He also maintains that his act was justified because AAA harassed and vexed him.⁵⁵ Thus, petitioner claims that there could not have been any intent to abuse on his part.

Petitioner contends that the injuries sustained by AAA will not affect the latter's physical growth or development and mental capacity.⁵⁶ He argues that he could not be convicted of child abuse without proof that the

⁴⁵ *Manotok Realty, Inc. v. CLT Realty Development Corp.*, 512 Phil. 679, 706 (2005) [Per J. Sandoval-Gutierrez, Third Division].

⁴⁶ *Id.*

⁴⁷ *Fuentes v. Court of Appeals*, 335 Phil. 1163, 1168 (1997) [Per J. Panganiban, Third Division]; *Bautista v. Puyat*, 416 Phil. 305, 308 (2001) [Per J. Pardo, First Division].

⁴⁸ *Changco v. Court of Appeals*, 429 Phil. 336, 342 (2002) [Per J. Ynares-Santiago, First Division].

⁴⁹ *People v. Pajares*, 310 Phil. 361, 366 (1995) [Per J. Melo, Third Division].

⁵⁰ *Addenbrook y Barker v. People*, 126 Phil. 854, 855 (1967) [Per J. J.B.L. Reyes, En Banc].

⁵¹ *People v. Pajares*, 310 Phil. 361, 366 (1995) [Per J. Melo, Third Division].

⁵² *Rollo*, pp. 30–31.

⁵³ *Id.* at 58–59.

⁵⁴ *Id.* at 59.

⁵⁵ *Id.* at 11.

⁵⁶ *Id.* at 14.

victim's development had been prejudiced.⁵⁷ He begs the indulgence of this Court and claims that his conviction would only serve as a "precedent to all children to act recklessly, errantly[,] and disobediently"⁵⁸ and would then create a society ruled by juvenile delinquency and errant behavior.⁵⁹ If at all, petitioner claims that he could only be convicted of slight physical injuries under the Revised Penal Code for the contusion sustained by AAA.⁶⁰

Respondent maintains that the act of whipping AAA is an act of child abuse.⁶¹ Respondent argues that the act complained of need not be prejudicial to the development of the child for it to constitute a violation of Republic Act No. 7610.⁶² Respondent, citing *Sanchez v. People*,⁶³ argues that Section 10(a)⁶⁴ of Republic Act No. 7610 defines and punishes four distinct acts.⁶⁵

We reject petitioner's contention that his act of whipping AAA is not child abuse but merely slight physical injuries under the Revised Penal Code. The victim, AAA, was a child when the incident occurred. Therefore, AAA is entitled to protection under Republic Act No. 7610, the primary purpose of which has been defined in *Araneta v. People*:⁶⁶

Republic Act No. 7610 is a measure geared towards the implementation of a national comprehensive program for the survival of the most vulnerable members of the population, the Filipino children, in keeping with the Constitutional mandate under Article XV, Section 3, paragraph 2, that "The State shall defend the right of the children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development."⁶⁷ (Emphasis omitted, citation omitted)

Under Section 3(b) of Republic Act No. 7610, child abuse is defined, thus:

Section 3. Definition of Terms.

⁵⁷ Id. at 14–15.

⁵⁸ Id. at 59.

⁵⁹ Id. at 58.

⁶⁰ Id. at 15.

⁶¹ Id. at 48.

⁶² Id.

⁶³ 606 Phil. 762 (2009) [Per J. Nachura, Third Division].

⁶⁴ Rep. Act No. 7610 (1992), sec. 10(a) provides:

Sec. 10. Other Acts of Neglect, Abuse, Cruelty of 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 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.

⁶⁵ *Rollo*, p. 45.

⁶⁶ 578 Phil. 876 (2008) [Per J. Chico-Nazario, Third Division].

⁶⁷ Id. at 883.

....

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

(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)

As can be gleaned from this provision, a person who commits an act that debases, degrades, or demeans the intrinsic worth and dignity of the child as a human being, whether habitual or not, can be held liable for violation of Republic Act No. 7610.

Although it is true that not every instance of laying of hands on the child constitutes child abuse,⁶⁸ petitioner's intention to debase, degrade, and demean the intrinsic worth and dignity of a child can be inferred from the manner in which he committed the act complained of.

To note, petitioner used a wet t-shirt to whip the child not just once but three (3) times.⁶⁹ Common sense and human experience would suggest that hitting a sensitive body part, such as the neck, with a wet t-shirt would cause an extreme amount of pain, especially so if it was done several times. There is also reason to believe that petitioner used excessive force. Otherwise, AAA would not have fallen down the stairs at the third strike. AAA would likewise not have sustained a contusion.

Indeed, if the only intention of petitioner were to discipline AAA and stop him from interfering, he could have resorted to other less violent means.

⁶⁸ *Bongalon v. People*, 707 Phil. 11, 20–21 (2013) [Per J. Bersamin, First Division].

⁶⁹ *Rollo*, p. 31.

Instead of reprimanding AAA or walking away, petitioner chose to hit the latter.

We find petitioner liable for other acts of child abuse under Article VI, Section 10(a) of Republic Act No. 7610, which provides that “a person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child’s development . . . shall suffer the penalty of *prision mayor* in its minimum period.”⁷⁰

In *Araneta*:

[Article VI, Section 10(a) of Republic Act No. 7610] punishes not only those enumerated under Article 59 of Presidential Decree No. 603, but also four distinct acts, *i.e.*, (a) child abuse, (b) child cruelty, (c) child exploitation and (d) being responsible for conditions prejudicial to the child's development. The Rules and Regulations of the questioned statute distinctly and separately defined child abuse, cruelty and exploitation just to show that these three acts are different from one another and from the act prejudicial to the child's development. . . . *[An] accused can be prosecuted and be convicted under Section 10(a), Article VI of Republic Act No. 7610 if he commits any of the four acts therein. The prosecution need not prove that the acts of child abuse, child cruelty and child exploitation have resulted in the prejudice of the child because an act prejudicial to the development of the child is different from the former acts.*

Moreover, it is a rule in statutory construction that the word “or” is a disjunctive term signifying dissociation and independence of one thing from other things enumerated. It should, as a rule, be construed in the sense which it ordinarily implies. Hence, the use of “or” in Section 10(a) of Republic Act No. 7610 before the phrase “be responsible for other conditions prejudicial to the child’s development” supposes that there are four punishable acts therein. First, the act of child abuse; second, child cruelty; third, child exploitation; and fourth, being responsible for conditions prejudicial to the child's development. The fourth penalized act cannot be interpreted . . . as a qualifying condition for the three other acts, because an analysis of the entire context of the questioned provision does not warrant such construal.⁷¹ (Emphasis supplied)

Petitioner’s act of whipping AAA on the neck with a wet t-shirt is an act that debases, degrades, and demeans the intrinsic worth and dignity of a child. It is a form of cruelty. Being smacked several times in a public place is a humiliating and traumatizing experience for all persons regardless of age. Petitioner, as an adult, should have exercised restraint and self-control rather than retaliate against a 14-year-old child.

⁷⁰ Rep. Act No. 7610 (1992), sec. 10(a).

⁷¹ *Araneta v. People*, 578 Phil. 876, 884–886 (2008) [Per J. Chico-Nazario, Third Division].

WHEREFORE, the Petition is **DENIED**. The Court of Appeals Decision dated August 11, 2011 and Resolution dated February 22, 2013 in CA-G.R. CEB-CR No. 00481 affirming the conviction of petitioner Van Clifford Torres y Salera for violation of Section 10(a) of Republic Act No. 7610 are **AFFIRMED**.


SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



PRESBITERO J. VELASCO, JR.
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice