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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

FRANCIS URSUA y BERNAL,
Accused-Appellant.

G.R. No. 218575

Present:

CARPIO, *J.*, *Chairperson,*
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, *JJ.*

Promulgated:

04 OCT 2017

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DECISION

PERALTA, *J.*:

This is an appeal from the July 17, 2014 Decision[1] of the Court of Appeals *(CA)* in CA-G.R. CR-HC No. 06105, which affirmed with modification the November 22, 2012 Decision[2] of the Regional Trial Court *(RTC)* Branch 261, Pasig City, convicting accused-appellant Francis Ursua *y* Bernal *(Ursua)* of qualified rape and acts of lasciviousness.

AAA was born on January 16, 1992[3] and is accused-appellant Ursua's biological daughter. Together with her father and elder brother, BBB, she lived in a small house with one room, but without kitchen and living room *(sala)*.

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1 Penned by Associate Justice Danton Q. Bueser, with Associate Justices Remedios A. Salazar-Fernando and Ramon R. Garcia concurring (*Rollo,* pp. 2-11; CA *rollo,* pp. 86-95).

2 Records, pp. 162-174; CA *rollo*, pp. 11-23.

3 TSN, November 22, 2007, p. 29. However, the Birth Certificate of AAA shows that she was born on January 16, 1994 (Records, p. 122).

Around 12:00 midnight on January 17, 2006, Ursua, who was drunk, woke up AAA and instructed her to buy a porridge *(lugaw)*. After eating, he told her to turn off the light and close the door. As they were sleeping in one bed, he undressed her, touched her vagina, and held her breast. He then removed his short pants and brief, moved on top of her, pulled his penis, and inserted it into her vagina. He told her not to make any noise. Consequently, she merely cried and did not shout, resist, or ask her father to stop. After the acts were done, they went to sleep.

Early dawn the next day, Ursua repeated the dastardly acts on AAA. He held her vagina and breast and inserted his penis into her vagina. Again, she did not ask for any help. She did not shout because her father almost hit her *("muntik na po nya akong sapakin")*. He told her not to make any noise; hence, she just cried. Later in the evening, around 10 p.m., Ursua once more held AAA's breasts and vagina and placed himself on top of her (*"pinatong po nya uli yong, pumatong po uli sya sa akin"*).[4]

From January 17 to 18, 2006, BBB was in the street, selling in the market. On January 19, 2006, AAA left their house and went to her godfather *(ninong)*, CCC. She told him what happened between her and Ursua. She did not return to their house and stayed with her *ninong* and cousins in a place under the Pasig City Hall.

On November 14, 2006, AAA, assisted by a liaison officer of the Department of Social Welfare and Development (*DSWD*), executed a sworn statement before the Women and Children Concern Unit of the Pasig City Police Station.[5] Based on the Request for Genital Examination by the police station, PSI Marianne Ebdane, a Medico-Legal Officer of the Philippine National Police Crime Laboratory in Camp Crame, Quezon City, conducted a medical examination of AAA on November 9, 2006. After finding that there were deep healed laceration at 7 o'clock position and shallow healed lacerations at 2, 3 and 9 o'clock positions, she concluded that there is a clear evidence of remote history of blunt force or penetrating trauma to AAA's hymen.[6] She interviewed AAA, who disclosed that it was caused by her father who inserted his organ into her vagina.

Charges for qualified rape[7] were then filed against Ursua. The three Informations, all dated February 20, 2007, alleged:

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4 TSN, November 22, 2007, pp. 22-23.

5 Records, pp. 13, 121.

6 *Id.* at 14, 123.

7 Under Article 266-A in relation to 266-B, Paragraph 5(1) of the Revised Penal Code *(RPC)*, as amended by Republic Act *(R.A.)* No. 8353, and in further relation to Section 5(a) of R.A. No. 8369.

Criminal Case No. 134832-H

On or about January 17, 2006, in Pasig City and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously had sexual intercourse with one [AAA], 14 years old, a minor and his daughter, against her will and consent.

Contrary to law.[8]

Criminal Case No. 134833-H

On or about January 18, 2006, at about 5:00 a.m., in Pasig City and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously had sexual intercourse with one [AAA], 14 years old, a minor and his daughter, against her will and consent.

Contrary to law.[9]

Criminal Case No. 134834-H

On or about January 18, 2006, at about 10:00 p.m., in Pasig City and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously had sexual intercourse with one [AAA], 14 years old, a minor and his daughter, against her will and consent.

Contrary to law.[10]

In his arraignment, Ursua pleaded not guilty. Trial ensued.

Ursua denied having any carnal knowledge of AAA. He recalled that around 9:00 p.m. to 10:00 p.m. on January 17, 2006 he arrived at the house after working at their neighbor's place. At that time, AAA and BBB were at the house. He was living only with them because he was already separated from his wife for a long time. He requested his children to buy *lugaw*. When they returned, he ate it and rested. He just heard that they closed the door and slept beside him. With lights on, BBB slept at the middle between him and AAA. While they were asleep, he did not notice anything.

When Ursua woke up at 5:00 a.m. on January 18, 2006, BBB was already awake, while AAA was still asleep. He brought BBB to the market to work at his (Ursua) cousin's vegetable store. By 7:00 a.m., he returned to their house to pick up AAA and bring her to school. Afterwards, he went to work and arrived at their house around 12:00 midnight. By that time, his two children were already sleeping.

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8 Records, p. 1.
9 *Id.* at 15.
10 *Id.* at 17.

On January 19, 2006, AAA attended school and proceeded directly to CCC's store located under the Pasig City Hall. She stayed there from 12:00 p.m. until Ursua fetched her around 9:00 p.m. to 10:00 p.m. Subsequently, however, AAA did not return home anymore. Since September 2006, she had been staying in the DSWD.

Ursua claimed that AAA filed the cases against him because he prevented her from going to CCC. The reason being that she became especially close to her godfather. Whenever he fetched her, he oftentimes saw him embracing her and that sometimes she was sitting on his lap. Due to the prohibition, AAA would leave the house whenever they were asleep. They would wake up without AAA and just see her already at CCC's place.

Testifying for his father, BBB declared that on January 17, 2006, he was at home with AAA, while his father was working as a helper. Around 8:00 p.m. to 9:00 p.m., Ursua arrived and told them to buy food. After which, they all ate the *lugaw* and slept around 10:00 p.m. to 11:00 p.m. The house they were residing at was only small and with one bed. Ursua and AAA slept on his either side. While sleeping, he did not feel or notice anything unusual. They woke up at 5 a.m. Considering that the light was on, he did not notice if his father or sister was already awake. He does not know the reason why AAA would file a case against their father and why she would lie about it. Prior to the alleged incident on January 17, 2006, he did not notice any special treatment or any unusual behavior of his father against his sister. There was no misunderstanding between them. He affirmed that she frequented the shop of CCC.

On November 22, 2012, Ursua was convicted of three (3) counts of qualified rape. The *fallo* of the Decision reads:

> **WHEREFORE**, premises considered, there being proof beyond reasonable doubt that accused FRANCIS URSUA y Bernal has committed the crime of Qualified Rape (3 counts) under Article 266-A in relation to Article 266-B, par. 5(1) of the Revised Penal Code and in further relation to Sec. 5(a) of R.A. 8369 as charged, the Court hereby pronounces him GUILTY beyond reasonable doubt and, there being aggravating circumstances, hereby sentences him to suffer the penalty of 3 counts of RECLUSION PERPETUA. Accused is ordered to pay AAA the amount of Php150,000.00 by way of civil indemnity; Php75,000.00 as moral damages and Php60,000.00 as exemplary damages.
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> **SO ORDERED**.[11]

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[11] Records, pp. 173-174; CA *rollo*, pp. 22-23. (Emphasis in the original)

The trial court found AAA as a witness and her testimony credible. She positively identified her father as the one who raped her and testified consistently and convincingly on the material facts, including the dates and time, that transpired in the alleged incidents. In addition, PSI Ebdane presented and explained her medico-legal report to corroborate AAA's declaration that she was sexually molested. The court was unconvinced by the defense of alibi and denial of Ursua. Even if corroborated by his son, the defense was not given credence as it was unsubstantiated and there was no doubt that he could be at the scene of the crime at the time the alleged incidents happened.

On appeal, the CA ruled that Ursua's denial cannot overcome the positive testimony of AAA. She was spontaneous and credible as she gave clear and categorical narration of events and was firm and steadfast in her accusations. However, in view of the failure of the prosecution to prove the fact of penile penetration with regard to the alleged rape that occurred in the evening of January 18, 2006, the appellate court downgraded the offense to acts of lasciviousness.[12] It disposed:

> **WHEREFORE**, premises considered, the appeal is hereby **DENIED**. The conviction of the Accused-Appellant Francis Ursua y Bernal for the two (2) counts of rape (Criminal Case No. 134832-H and Criminal Case No. 134833-H) is **AFFIRMED**. The third (Criminal Case No. 134834-H) count of rape is **MODIFIED** to **ACTS OF LASCIVIOUSNESS** and accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* as maximum period and ordered to pay AAA moral damages of ₱15,000.00; civil indemnity of ₱20,000.00 and exemplary damages of ₱15,000.00.
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> **SO ORDERED**.[13]

Before Us, the People, as represented by the Office of the Solicitor General, manifested that it would not file a Supplemental Brief as the Appellee's Brief filed before the CA adequately addressed the issues and arguments raised in this case.[14] Per the Court's Resolution dated March 16, 2016, Ursua was deemed to have waived the filing of the required brief. It appeared that he did not file a supplemental brief pursuant to the Resolution[15] dated July 27, 2015, within the period fixed therein which expired on October 17, 2015.

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12 Defined and penalized under Article 336 of the RPC, in relation to Section 5(b), Article III of R.A. No. 7610.

13 *Rollo*, pp. 10-11; CA *rollo*, pp. 94-95.

14 *Rollo*, pp. 21-24.

15 *Id.* at 17-18.

There is no reason to reverse the judgment of conviction, but a modification of the penalties imposed, the damages awarded, and the nomenclature of the offense committed, is in order.

We accord high respect and conclusiveness on the trial court's calibration of the testimonies of the witnesses and the conclusions derived therefrom when no glaring errors, gross misapprehension of facts, and speculative, arbitrary, and unsupported conclusions can be gathered from such findings. Indeed, trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and observed their deportment and manner of testifying during trial, and the rule finds an even more stringent application where the trial court's findings are sustained by the CA.[16]

However, the assailed CA decision is modified as to the penalty imposed and the damages awarded in Criminal Cases No. 134832-H and 134833-H. With respect to the two (2) counts of qualified rape by sexual intercourse, Ursua is sentenced to suffer the penalty of two (2) counts of *reclusion perpetua* without eligibility for parole,[17] and is ordered to pay AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages for each count, in line with current jurisprudence.[18]

As to the penalty for qualified rape under paragraph 1, Article 266-A of the RPC, Article 266-B (1) of the RPC provides that the death penalty shall be imposed if the victim is under eighteen (18) years of age and the offender is the parent. Applying R.A. No. 9346,[19] the CA correctly imposed the penalty of *reclusion perpetua,* but it should be specified that it is without eligibility for parole. This is pursuant to A.M. No. 15-08-02-SC which states that "[w]hen circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification '*without eligibility for parole*' shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346." Meanwhile, the damages awarded by the RTC, as affirmed by the CA, should be modified in view of *People v. Jugueta*[20] where it was held that in cases of qualified rape where the imposable penalty is death but the same is reduced to *reclusion perpetua* because of R.A. No. 9346, the amounts of civil

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16 *People v. Altubar,* G.R. No. 207089, February 18, 2015. (Resolution)

17 Pursuant to Article 266-B of the RPC, as amended by R.A. No. 8353, in relation to Section 3 of R.A. No. 9346.

18 *People v. Jugueta,* G.R. No. 202124, April 5, 2016, 788 SCRA 331.

19 Known as "*An Act Prohibiting the Imposition of Death Penalty in the Philippines*".

20 *Supra* note 18.

indemnity, moral damages and exemplary damages shall be in the amount of ₱100,000.00 each.[21]

As regards Criminal Case No. 134834-H, the CA decision is likewise modified as to the nomenclature of the offense, the penalty imposed and the damages awarded.

Since AAA merely testified that her father touched her breasts and vagina, and thereafter placed himself on top of her ("*pumatong siya*"), and there was no specific mention of a penetration of Ursua's penis or fingers into AAA' vagina, the CA correctly ruled that Ursua cannot be held liable for rape by sexual intercourse as charged in the Information in Criminal Case No. 134834-H. Be that as it may, Ursua can still be convicted of sexual abuse under Section 5(b), Article III of R.A. No. 7610[22] pursuant to the variance doctrine under Sections 4 and 5, Rule 120[23] of the Rules of Court, because the same offense was proved during trial and is necessarily included in acts of lasciviousness under Article 336 of the RPC which, under settled jurisprudence,[24] is necessarily included in the crime of rape.[25]

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21 *People v. Roger Galagati y Garduce*, G.R. No. 207231, June 29, 2016.

22 Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

23 SEC. 4. *Judgment in case of variance between allegation and proof.*—When there is variance between the offense charge in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.

SEC. 5. *When an offense includes or is included in another.*—An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

24 *People v. Pareja,* 724 Phil. 759 (2014); *People v. Rellota*, 640 Phil. 471 (2010)) and *People v. Garcia*, 695 Phil. 576 (2012).

25 See Separate Concurring Opinion in *People v. Noel Caoili alias "Boy Tagalog"*, G.R. Nos. 196342 and 196848, August 8, 2017, pp. 5-7.

> x x x x
>
> An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter, whereas an offense charged is necessarily included in the offense proved when the essential ingredients of the former constitute or form part of those constituting the latter.
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> x x x
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> A comparison of the essential elements or ingredients of sexual abuse under Section 5(b), Article III of R.A. No. 7610 and acts lasciviousness under Article 336 of the RPC barely reveals any material or substantial difference between them. The first element of sexual abuse under R.A. No. 7610, which includes lascivious conduct, lists the particular acts subsumed under the broad term "act of lasciviousness or lewdness" under Article 336. The second element of "*coercion and influence*" as appearing under R.A. No 7610 is likewise broad enough to cover "*force and intimidation*" as one of the circumstances under Article 336. Anent the third element, the offended party under R.A. No. 7610 and Article 336 may be of either sex, save for the fact that the victim in the former must be a child. I therefore posit that the sexual abuse under Section 5(b), Article III of R.A. No. 7610 is necessarily included the crime of acts of lasciviousness under Article 336 of the RPC.
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> Applying the variance doctrine in this case where the crime charged is rape by sexual intercourse, Caoili can still be convicted of sexual abuse under Section 5(b), Article III of R.A No. 7610. This is because the same crime was proved during trial and is necessarily included in the crime of acts of lasciviousness under Article 336 of the RPC which, under

Contrary to the CA's ruling that Ursua is, at the most, liable for one (1) count of acts of lasciviousness under Article 336 of the RPC, in relation to Section 5(b), Article III of R.A. No. 7610 due to the prosecution's failure to prove the fact of carnal knowledge, We rule that the proper nomenclature of the offense is sexual abuse under Section 5(b), Article III of R.A. No. 7610. This is consistent with the CA's discussion on the prosecution's failure to prove the fact of carnal knowledge in Criminal Case No. 134834-H:

> The elements of **sexual abuse** under Section 5(b), Article III of Republic Act No. 7610 are as follows:
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> 1. The accused commit the act of sexual intercourse or lascivious conduct.
> 2. The said act is performed with a child exploited in prostitution or subjected to sexual abuse.
> 3. The child, whether male or female, is below 18 years of age.
>
> First, **accused-appellant's touching of AAA's breasts and vagina with lewd designs constitute lascivious conduct** defined in Section 2(h) of the Implementing Rules and Regulations of Republic Act No. 7610, to wit:
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> x x x x
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> Second, **appellant, as a father having moral ascendancy over his daughter, coerced AAA to engage in lascivious conduct, which is within the purview of sexual abuse.**
>
> Third, **AAA is below 18 years old at the time of the commission of the offense, based on her testimony which was corroborated by her Birth Certificate presented during trial.** x x x[26]

Accordingly, Ursua should be convicted of sexual abuse under Section 5(b), Article III of R.A. No. 7610, and not just acts of lasciviousness under Article 336 of the RPC, in relation to the same provision of R.A. No. 7610.

Concededly, the failure to designate the offense by statute, or to mention the specific provision penalizing the act, or an erroneous specification of the law violated, does not vitiate the information if the facts alleged clearly recite the facts constituting the crime charged, for what controls is not the title of the information or the designation of the offense, but the actual facts recited in the information.[27] It bears emphasis, however, that the designation in the information of the specific statute violated is imperative to avoid surprise on the accused and to afford him the opportunity to prepare his defense accordingly.[28] Thus, the Court finds it

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settled jurisprudence, is necessarily included in a complaint for rape.

26 CA *rollo*, pp. 93-94. (Emphasis added).

27 *Malto v. People*, 560 Phil. 119, 135-136 (2007).

28 *Id.* at 135.

necessary to stress its ruling in *Caoili*:[29] (1) that the crime of **acts of lasciviousness under Article 336 of the RPC, in relation to Section 5(b), Article III of R.A. No. 7610,** can only be committed against a victim who is less than 12 years old; and (2) that when the victim is aged 12 years old but under 18, or is above 18 years old under special circumstances, the proper designation of the offense is **sexual abuse or lascivious conduct under Section 5(b) of R.A. No. 7610**:

> Based on the language of Section 5(b) of R.A. No. 7610, however, the offense designated as **Acts of Lasciviousness under Article 336 of the RPC in relation to Section 4 of R.A. No. 7610** should be used when the victim is **under twelve (12) years of age** at the time the offense was committed. This finds support in the first *proviso* in Section 5(b) of R.A. No. 7610 which requires that "*when the vicitim 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.*" Thus, pursuant to this *proviso*, it has been held that before an accused can be convicted of child abuse through lascivious conduct on a minor below 12 years of age, the requisites for acts of lasciviousness under Article 336 of the RPC must be met in addition to the requisites for sexual abuse under Section 5 of R.A. No. 7610.
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> Conversely, when the victim, at the time the offense was committed is aged twelve (12) years or over but under eighteen (18), or is eighteen (18) or older but unable to fully take care of herself/himself or protect himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the nomenclature of the offense should be **Lascivious Conduct under Section 5(b) of R.A. No. 7610**, since the law no longer refers to Article 336 of the RPC, and the perpetrator is prosecuted solely under R.A. No. 7610.
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> x x x x
>
> Accordingly, for the guidance of public prosecutors and the courts, the Court takes this opportunity to prescribe the following guidelines in designating or charging the proper offense in case lascivious conduct is committed under Section 5(b) of R.A. No. 7610, and in determining the imposable penalty:
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> 1. The age of the victim is taken into consideration in designating the offense, and in determining the imposable penalty.
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> 2. If the victim is under twelve (12) years of age, the nomenclature of the crime should be "Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of R.A. No. 7610. Pursuant to the second *proviso* in Section 5(b) of R.A. No. 7610, the imposable penalty is *reclusion temporal* in its medium period.
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> 3. If the victim is exactly twelve (12) years of age, or more than twelve (12) but below eighteen (18) years of age, or is eighteen (18) years

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29 *Supra* note 25.

> or older but is unable to fully take care of herself/himself or protect herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the crime should be designated as "Lascivious Conduct under Section 5(b) of R.A. No. 7610," and the imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua.*[30]

Considering that the victim was 14 years old at the time of the commission of sexual abuse under Section 5(b) of R.A. No. 7610, and there being no mitigating circumstance to offset the alternative aggravating circumstance of (paternal) relationship,[31] as alleged in the information and proved during the trial of Criminal Case No. 134834-H, Ursua is sentenced to suffer the penalty of *reclusion perpetua* and is ordered to pay ₱15,000.00 as fine, pursuant to Section 31(a)[32] and (f)[33] of R.A. No. 7610, as well as 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, in line with current jurisprudence.[34]

Finally, a legal interest at the rate of six percent (6%) *per annum* is imposed on all the monetary awards for damages from the date of finality of this judgment until fully paid.[35]

WHEREFORE, premises considered, the July 17, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06105 is **AFFIRMED WITH MODIFICATION**. Accused-appellant Francis Ursua *y* Bernal is hereby found guilty beyond reasonable doubt of the following:

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30 Emphasis and italics in the original; citations omitted.

31 Article 15 of the Revised Penal Code:

Art. 15. *Their concept.* — Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender.

The alternative circumstance of relationship shall be taken into consideration when the offended party in the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

x x x

32 R.A. No. 7610, Article XII, Section 31. *Common Penal Provisions.* –

x x x x

(a) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked.

(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.

34 *People v. Noel Go Caoili alias "Boy Tagalog"*, G.R. Nos. 196342 and 196848, August 8, 2017.

35 See Bangko Sentral ng Pilipinas Circular No. 799, Series of 2013, effective July 1, 2013, in *Nacar v. Gallery Frames, et al.* 716 Phil. 267 (2013).

1. Two (2) counts of **Qualified Rape** in Criminal Cases No. 134832-H and 134833-H. He is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and ordered to pay AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, for each count; and

2. One (1) count of **Sexual Abuse** in Criminal Case No. 134834-H. He is sentenced to suffer the penalty of *reclusion perpetua,* to pay a fine of ₱15,000.00, and 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.

All monetary awards for damages shall earn an interest rate of six percent (6%) *per annum* to be computed from the finality of the judgment until fully paid.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ESTELA M. PERLAS BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
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