



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 244835

Present:

PERLAS-BERNABE, J.,  
*Chairperson,*  
A. REYES, JR.,  
HERNANDO,  
INTING, and  
DELOS SANTOS, JJ.

- versus -

ABC,<sup>1</sup>

Accused-Appellant.

Promulgated:

11 DEC 2019

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DECISION

REYES, JR., J.:

*It is said that the safest place in the world for a daughter is in her father's arms. Not in this case.*

This is an appeal<sup>2</sup> filed by accused-appellant ABC from the Decision<sup>3</sup> dated September 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09378, which affirmed the Judgment<sup>4</sup> dated March 28, 2017 of the Regional Trial Court (RTC) of Quezon City, Branch 106 in Criminal Case

<sup>1</sup> At the victim's instance or, if the victim is a minor, that of his or her guardian, the complete name of the accused may be replaced by fictitious initials and his or her personal circumstances blotted out from the decision, resolution, or order if the name and personal circumstances of the accused may tend to establish or compromise the victims' identities, in accordance with Amended Administrative Circular No. 83-2015 (III [1] [c]) dated September 5, 2017.

<sup>2</sup> CA *rollo*, pp. 121-122. See Notice of Appeal dated October 15, 2018.

<sup>3</sup> Penned by Associate Justice Pedro B. Corales with Associate Justices Jane Aurora C. Lantion and Ronaldo Roberto B. Martin, concurring; *rollo*, pp. 3-18.

<sup>4</sup> Records, pp. 173-193.

Reyes

Nos. R-QZN-14-07928-CR and R-QZN-14-07929-CR, convicting ABC guilty of the crimes of Acts of Lasciviousness under Article 336 and Rape under Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353.

### The Facts

In two separate Informations, ABC was charged with two counts of Rape allegedly committed against his minor daughter, the accusatory portions of which provides:

Criminal Case No. R-OZN-14-07928-CR

That on or between April and May, 2011, in Quezon City, Philippines, the above-named accused, by means of force, threat and intimidation and exercising moral ascendancy over one [AAA],<sup>5</sup> since he is her father, did then and there, willfully, unlawfully and feloniously commit an act of sexual abuse upon the said [AAA], his very own daughter and a minor 9 years of age, by then and there willfully, unlawfully and feloniously having carnal knowledge with the offended party, against her will and without her consent, to the damage and prejudice of the said offended party.

The crime described above is committed with the qualifying circumstances of relationship and minority for the accused is the father of the offended party who was minor, nine (9) years of age at the time.

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

Criminal Case No. R-OZN-14-07929-CR

That on or between January 13 and January 21, 2011, in Quezon City, Philippines, the above-named accused, by means of force, threat and intimidation and exercising moral ascendancy over one [AAA], since he is her father, did then and there, willfully, unlawfully and feloniously commit an act of sexual abuse upon the said [AAA], his very own daughter and a minor 9 years of age, by then and there willfully, unlawfully and feloniously having carnal knowledge with the offended party, against her will and without her consent, to the damage and prejudice of the said offended party.

The crime described above is committed with the qualifying circumstances of relationship and minority for the accused is the father of the offended party who was minor, nine (9) years of age at the time.

CONTRARY TO LAW.<sup>7</sup>

<sup>5</sup> The real name of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 otherwise known as the "Special Protection of Children against Abuse, Exploitation and Discrimination Act" and A.M. No. 12-7-15-SC entitled "Protocols and Procedure: in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names."

<sup>6</sup> Records, p. 2.

<sup>7</sup> Id. at 4.



When arraigned on October 9, 2014, assisted by a public attorney, ABC entered separate pleas of “not guilty” to the crimes charged.<sup>8</sup> Pre-trial was held on May 4, 2015<sup>9</sup> where the prosecution identified AAA, BBB,<sup>10</sup> CCC,<sup>11</sup> DDD,<sup>12</sup> and Police Chief Inspector Charyl Escaro, MD (Dr. Escaro), the medico legal officer as its witnesses while the defense identified the accused-appellant as its witness. Joint trial on the merits thereafter ensued.

Evidence for the prosecution shows that on the evening between January 13 and 21, 2011 which was a few days after her 9<sup>th</sup> birthday, AAA was sleeping in their house situated at [REDACTED] Quezon City. On that evening, she was with her father, ABC, and her three brothers, and they were all sleeping on a cushion on the floor. AAA was suddenly awakened when she felt that something round was pressed on the side of her head. When she opened her eyes, she was not able to see anything because it was dark. AAA wondered as the lights were usually turned on when they sleep. Thinking that it was one of her brother’s foot that was on her face, AAA tried to remove it but she heard the voice of ABC saying, “*Baril ito. Huwag kang maingay.*” AAA kept silent because of fear. ABC started stripping AAA by removing her t-shirt, shorts, and panty. AAA tried to put her panty back on but ABC prevailed in undressing her despite her struggle. ABC then inserted his penis into AAA’s vagina until she felt that he urinated inside her vagina. After, ABC threatened to kill her brothers if AAA should tell about the incident to the police and to her *lola* EEE who reside nearby. The following morning, AAA woke up feeling a sharp pain in her vagina. When she washed, she felt that there was a wound at the tip of the center of her vagina.<sup>13</sup>

AAA testified that ABC raped her many times and sometimes twice a week especially on Saturdays and Sundays when ABC was drunk. These unfortunate events became more frequent when ABC lost his job February 2011 which lasted for a year.<sup>14</sup>

Evidence for the prosecution likewise shows that on the evening between April and May, 2011, AAA’s brother, DDD, was at home with his siblings, AAA, FFF and GGG. They were in bed when their father, ABC, arrived. ABC told DDD to turn off the light, which he did and then to go to sleep. They all laid down facing the wall with DDD near the door, next to him was ABC, GGG, AAA, and FFF. Later, ABC moved to AAA’s side. DDD was still awake at that time and he saw ABC stand up and went on top of AAA, ABC took out something which went in and out of AAA’s vagina. But because the room was dimly lit, DDD testified that he only saw shadows, with the illumination coming from the moonlight outside. Thereafter, DDD saw ABC lay beside AAA, and then he eventually fell asleep. DDD did not reveal

<sup>8</sup> Id. at 52-54.

<sup>9</sup> Id. at 77-78.

<sup>10</sup> The mother of AAA; id. at 6.

<sup>11</sup> The aunt of AAA; id.

<sup>12</sup> The brother of AAA; records, p. 7.

<sup>13</sup> Id. at 175.

<sup>14</sup> Id.

*Reyes*

to anyone about what he saw for fear that he might not be allowed to go out of the house and that he will get spanked.<sup>15</sup>

One year later, or on January 29, 2012, AAA revealed her ordeal to her aunt CCC who did not believe her initially until she showed a “kiss mark” on her breast. Immediately, CCC took AAA to the authorities where they filed a complaint against ABC. Acting on the complaint, police officers arrested ABC for investigation.

AAA was subjected to a physical and medical examination by Dr. Escaro. The Medico-Legal Report No. R12-127<sup>16</sup> dated February 3, 2012 revealed:

**FINDINGS:**

**GENERAL AND EXTRAGENITAL:**

PHYSICAL BUILT:	-medium
MENTAL STATUS:	-coherent
BREAST:	-conial [sic] in shape/light brown
ABDOMENT:	-soft/flat
PHYSICAL INJURIES:	<ol style="list-style-type: none"> <li>1. Healing ecchymosis, right chest region, measuring 3.0 x 4.0 cm, 10 cm from the anterior midline.</li> <li>2. Healing ecchymosis, left chest region, measuring 5.0 x 3.0cm, 8cm</li> </ol>

**GENITAL**

PUBIC HAIR:	-absent
LABIA MAJORA:	-coaptated
LABIA MINORA:	-light brown/non-hypertrophied
HYMEN:	-presence of deep healed lacerations at 3 and 9 o'clock positions.
POSTERIOR FOURCHETTE:	-sharp
EXTERNAL VAGINAL ORIFICE:	-not assessed
VAGINAL CANAL:	-not assessed
CERVIX:	-not assessed
PERIURETHRAL AND VAGINAL SMEARS:	-not assessed
ANUS:	=unremarkable

**CONCLUSION: Medical evaluation shows clear evidence of blunt penetrating trauma to the hymen.<sup>17</sup>**

The prosecution rested its case after a formal offer of its documentary evidence.<sup>18</sup>

For its part, the defense presented ABC as its only witness. ABC denied the charges and claimed that the crimes were merely fabricated by his mother-in-law who is extremely angry with him for his supposed “*pambababae*.” He claimed that his mother-in-law would get jealous every time he and his female

<sup>15</sup> Records, p. 175-176.

<sup>16</sup> Id. at 157.

<sup>17</sup> Id.

<sup>18</sup> Records, p. 138-139.

*Meyer*

co-worker walk the dogs of his boss every morning. His mother-in-law was with the police officers when he was arrested in their house.<sup>19</sup>

### The RTC Ruling

After due proceedings, the RTC rejected ABC's defense of denial in Criminal Case No. R-QZN-14-07929-CR and ruled that the prosecution was able to fully discharge its burden to prove his guilt beyond reasonable doubt for the crime of Rape defined under Article 266-A of the RPC, as amended.

The trial court, however, found insufficient evidence to establish ABC's guilt in the second count of Rape as charged in Criminal Case No. R-QZN-14-07928-CR. The trial court ruled that the prosecution was not able to establish what ABC took out that went in and out of AAA's vagina.<sup>20</sup> It ratiocinated that in Rape cases, it is essential for the prosecution to establish that the penis of the accused reaches the pudendum or at least the labia of the victim.<sup>21</sup> Absent any showing of the slightest penetration of the female organ, there can be no consummated Rape. The trial court, however, found ABC guilty of the crime of Acts of Lasciviousness, the elements of which are included in Rape.<sup>22</sup>

The RTC decreed:

**IN VIEW WHEREOF**, judgment is hereby rendered finding accused [ABC] as follows:

1. In Criminal Case No. R-QZN-14-07928, accused is GUILTY of the crime of Acts of Lasciviousness under Article 336 of the Revised Penal Code and is sentenced to suffer the indeterminate penalty of 6 months of *arresto mayor* as minimum to 6 years of *prision correccional* as maximum and to pay private complainant the amount of PhP 20,000.00 as civil indemnity, PhP 30,000.00 as moral damages and PhP 10,000.00 as exemplary damages, with interest at the rate of 6% *per annum* from the date of finality of this Judgment until fully paid.

2. In Criminal Case No. R-QZN-14-07929, accused is GUILTY of the crime of Rape and is hereby sentenced to reclusion perpetua, without eligibility for parole and is likewise ordered to pay private complainant the amount of P100,000.00 as civil indemnity, P100,000.00 as moral damages and P100,000.00 as exemplary damages, with interest at the rate of 6% *per annum* from the date of finality of this Judgment until fully paid.

The period of the accused's preventive detention shall be credited in the service of his sentence.

**SO ORDERED.**<sup>23</sup> (Emphasis in the original)

<sup>19</sup> Id. at 177, CA *rollo*; p. 109.

<sup>20</sup> Records, p. 189.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Records, p. 193.

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ABC elevated the case to the CA via a Notice of Appeal that was filed on April 4, 2017.<sup>24</sup>

### Ruling of the CA

On September 27, 2018, the CA ruled that the prosecution was able to establish the concurrence of all the elements for the crime of Rape in Criminal Case No. R-QZN-14-07929-CR.<sup>25</sup> AAA's minority and her relationship with ABC were not in dispute.<sup>26</sup> The clear and categorical testimony of AAA as corroborated by pieces of evidence that were submitted in court proved the guilt of ABC for the crime of Qualified Rape.<sup>27</sup>

The CA however modified the nomenclature of the offense committed, the penalty imposed and the damages awarded in Criminal Case No. R-QZN-14-07928-CR.<sup>28</sup> The appellate court, citing jurisprudence, ruled that when the victim is under 12 years old and all the elements of Acts of Lasciviousness are present, as in the instant case, the nomenclature of the crime should be Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b) of R.A. No. 7610, which was also included in the offense of Rape charged in Criminal Case No. R-QZN-14-07928-CR.<sup>29</sup>

The CA then disposed:

**WHEREFORE**, the instant appeal is hereby **DENIED**. The March 28, 2017 Judgment of the Regional Trial Court, Branch 106, Quezon City in Criminal Case No. R-QZN-14-07928-CR and R-QZN-14-07929-CR **AFFIRMED** with **MODIFICATIONS**. As modified in Criminal Case R-QZN-14-07928-CR accused-appellant ABC is found guilty of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5 (b) of Republic Act No. 7610 and sentenced to suffer the indeterminate penalty of fourteen (14) years and eight (8) months of *reclusion temporal* minimum, as minimum to seventeen (17) years and four (4) months of *reclusion temporal* medium, as maximum. He is further ordered to pay private complainant ₱20,000.00 civil indemnity, moral damages, exemplary damages, and fine, in the amount of ₱15,000.00 each, which shall earn 6% interest *per annum* from the date of finality of this Decision until fully paid. All other aspects of the assailed Judgment stand.

**SO ORDERED.**<sup>30</sup> (Emphasis in the original)

Insisting on his innocence, ABC filed the instant appeal anchored on the following assigned errors:

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<sup>24</sup> Id. at 199.  
<sup>25</sup> CA *rollo*, p. 113.  
<sup>26</sup> Id.  
<sup>27</sup> CA *rollo*, p. 113-114.  
<sup>28</sup> Id. at 117  
<sup>29</sup> Id. at 117-118.  
<sup>30</sup> Id. at 119.





## I

THE COURT *A QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF ACTS OF LASCIVIOUSNESS AND RAPE DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THAT THE SAME TRANSPIRED.

## II

THE COURT *A QUO* GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION WITNESSES' HIGHLY INCONSISTENT, DUBIOUS AND INSUFFICIENT TESTIMONIES.<sup>31</sup>

### The Ruling of the Court

The appeal lacks merit.

The instant case pertains to the crime of Qualified Rape committed by a father having carnal knowledge of his 9 year old daughter. It is also about the commission of lascivious conduct by a father to his minor daughter denominated as other form of sexual abuse under R.A. No. 7610.

Article 266-A of the RPC provides:

ART. 266-A. Rape; When and How Committed. – Rape is committed. –

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

X X X X

Under the foregoing provision, the crime of Rape is committed when a man shall have carnal knowledge of a woman under any of the following circumstances: (a) through force, threat, or intimidation; (b) when the offended party is deprived of reason or otherwise unconscious; (c) by means of fraudulent machination or grave abuse of authority; and (d) when the offended party is under 12 years of age or is demented, even though none of the circumstances previously mentioned are present. It is penalized with

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<sup>31</sup> Id. at 34.

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*reclusion perpetua* as provided under Article 266-B of the RPC, as amended by R.A. No. 8353.

The crime of Rape is qualified if the following elements concur: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under 18 years of age at the time of the Rape; and (5) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.<sup>32</sup>

On the other hand, Section 5 (b), Article III of R.A. No. 7610 provides:

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.

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; and

X X X X

The essential elements of Section 5 (b) are: (a) the accused commits the act of sexual intercourse or lascivious conduct; (b) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and, (c) the child whether male or female, is below 18 years of age.<sup>33</sup> The imposable penalty is *reclusion temporal in its medium period to reclusion perpetua*, except that the penalty for lascivious conduct when the victim is under 12 years of age shall be *reclusion temporal in its medium period*.

After a judicious review of the records of the case, the Court finds no convincing reason to depart from the findings of the RTC, as modified by the CA, that the prosecution was able to sufficiently prove beyond a reasonable doubt all the elements of the crimes of Qualified Rape and Acts of Lasciviousness.

In assailing his conviction, ABC mainly harps on the fact that AAA's testimony is uncorroborated as to the alleged acts of Rape.<sup>34</sup> He averred that the prosecution witness merely offered contradictory and irreconcilable

<sup>32</sup> *People v. Divinagracia*, 814 Phil. 730, 748 (2017).

<sup>33</sup> *People v. Dagsa*, G.R. No. 219889, January 29, 2018, 853 SCRA 276, 294.

<sup>34</sup> *CA rollo*, p. 40.

Meyer



statements.<sup>35</sup> He argues that the contradictory and irreconcilable statements of AAA must not be disregarded when the issue is one's liberty.<sup>36</sup>

ABC alleged that witness CCC did not see who the actual perpetrator of Criminal Case No. R-QZN-14-07928 was. As such, the identity of who committed the said crime was not established by the prosecution beyond reasonable doubt.<sup>37</sup> ABC lamented that the trial court primarily relied on the uncorroborated, inconsistent, deficient and contrived testimonies of the prosecution witnesses.<sup>38</sup>

We are not convinced.

Based on jurisprudence, the testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that Rape was indeed committed.<sup>39</sup> Youth and immaturity are generally badges of truth and sincerity.<sup>40</sup>

Moreover, no woman, least of all a child, would concoct a story of defloration, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of Rape and impelled to seek justice for the wrong done to her being.<sup>41</sup> "When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true."<sup>42</sup>

The appreciation of the trial court on the credibility of AAA as a direct witness given her straightforward, candid and categorical narration of the identity of ABC as the perpetrator of the crimes charged as well as the acts constituting the said crimes, must be sustained especially since the CA affirmed the same. In *People v. Moya*,<sup>43</sup> this Court reiterated:

The credibility given by the trial court to AAA is an important aspect of evidence which the appellate court can rely on because of its unique opportunity to observe the witnesses, particularly their demeanor, conduct and attitude during the direct and cross-examination by counsel. There is no showing that the trial court judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, his assessment of credibility deserves this Court's highest respect.

Moreover, in *People v. Bandoquillo*,<sup>44</sup>

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<sup>35</sup> Id. at 43.

<sup>36</sup> Id.

<sup>37</sup> CA rollo, p. 45.

<sup>38</sup> Id.

<sup>39</sup> *People v. Alberca*, 810 Phil. 896, 906 (2017).

<sup>40</sup> *People v. Descartin, Jr.*, 810 Phil. 881, 892 (2017).

<sup>41</sup> *People v. Tubillo*, 811 Phil. 525 (2017).

<sup>42</sup> *People v. Ganaba*, G.R. No. 219240, April 4, 2018, 860 SCRA 578, 526.

<sup>43</sup> G.R. No. 228260, June 10, 2019.

<sup>44</sup> G.R. No. 218913, February 7, 2018, 855 SCRA 189.

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It is settled that “when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court’s observations and conclusions deserve great respect and are often accorded finality” unless it is shown that the lower court had overlooked, misunderstood or misappreciated some fact or circumstance of weight which, if properly considered, would have altered the result of the case. “[This] rule finds an even more stringent application where said findings are sustained by the Court of Appeals.”<sup>45</sup> (Citations and emphasis omitted)

The Court finds no reason to disturb the lower court’s appreciation of the prosecution’s witnesses’ testimonies. The assessment of “the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand, a vantage point denied appellate courts x x x.”<sup>46</sup>

The Court further agrees with the rejection of denial as defense for ABC. It is well-settled that denial is essentially the weakest form of defense and it can never overcome an affirmative testimony particularly when it comes from the mouth of a credible witness.<sup>47</sup> This is in consonance with this Court’s consistent pronouncement that “no decent and sensible woman will publicly admit being a Rape victim and thus run the risk of public contempt – the dire consequence of a Rape charge – unless she is, in fact, a Rape victim.”<sup>48</sup>

### The Penalty

The lower court correctly found ABC guilty beyond reasonable doubt for the crime of Qualified Rape, defined and penalized under Article 266-A, par. 1 and Article 266-B of the RPC. The Court, therefore, sustains the penalty of *reclusion perpetua* imposed on ABC in Criminal Case No. R-QZN-14-07929-CR.

In Criminal Case No. R-QZN-14-07928-CR, the appellate court modified the nomenclature of the offense committed, the penalty imposed and the damages awarded. The CA correctly found ABC guilty of Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b), Article III of R.A. No. 7610 and sentenced him to suffer the indeterminate penalty of fourteen (14) years, eight (8) months of *reclusion temporal* minimum, as minimum to seventeen (17) years and four (4) months of *reclusion temporal* medium, as maximum.

As mandated by Section 5 (b), Article III, R. A. No. 7610, the imposable penalty therefore is *reclusion temporal* in its medium period or a duration of fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months, since the victim was under twelve (12) years of age at the time of the crime.

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<sup>45</sup> Id. at 196-197.

<sup>46</sup> *People v. Deliola*, 794 Phil. 194, 208 (2016).

<sup>47</sup> *People v. Dulay*, 695 Phil. 742, 759 (2012).

<sup>48</sup> *People v. Fontillas*, 653 Phil. 406, 418 (2010), citing *People v. Mendoza*, 490 Phil. 737, 746-747 (2005).

Meyer

In *People v. Padlan*,<sup>49</sup> the Court pronounced:

The Indeterminate Sentence Law (ISL) provides that if the offense is punished under a special law, as in this case, the maximum term shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. Nonetheless, the Court had already held in *People v. Simon* that when an offense is defined in a special law but the penalty therefor is taken from the technical nomenclature in the RPC, the legal effects under the system of penalties native to the Code would necessarily apply to the special law. Thus, in *People v. Santos*, which also involved a case of acts of lasciviousness under Sec. 5 (b), Art. III of RA 7610, the Court held that in the absence of mitigating or aggravating circumstances, the minimum term shall be taken from the penalty one degree lower to the prescribed penalty of *reclusion temporal* medium, that is *reclusion temporal* minimum, which ranges from twelve (12) years, ten (10) months and twenty-one (21) days to fourteen (14) years and eight (8) months, while the maximum shall be taken from the medium period of the imposable penalty, that is *reclusion temporal* medium, which ranges from fifteen (15) years, six (6) months and twenty (20) days to sixteen (16) years, five (5) months and nine (9) days.<sup>50</sup> (Citations omitted)

Given the presence of the alternative aggravating circumstance of relationship in the instant case the perpetrator being the father of AAA and without any mitigating circumstances to offset the same, the term of the sentence was properly imposed by the appellate court in its maximum period pursuant to Section 31 (c), Article XII of R. A. No. 7610 which provides:

Sec. 31. *Common Penal Provisions.* —

X X X X

(c) **The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, step-parent 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;**

x x x x (Emphasis supplied)

As regards the award of damages, a modification must be made in view of the Court's ruling in *People v. Tulagan*.<sup>51</sup> The awards of civil indemnity, moral and exemplary damages in favor of the offended party are accordingly increased to fifty thousand pesos (₱50,000.00) each. The fine of fifteen thousand (₱15,000.00) previously awarded by the CA is sustained. All monetary awards shall earn a six percent (6%) legal interest from the date of the finality of this Decision until full payment.

<sup>49</sup> 817 Phil. 1008 (2017).

<sup>50</sup> Id. at 1027-1028.

<sup>50</sup> Id. at 196-197.

<sup>50</sup> *People v. Dulay*, 695 Phil. 742, 759 (2012).

<sup>50</sup> *People v. Fontillas*, 653 Phil. 406, 418 (2010).

<sup>51</sup> G.R. No. 227363, March 12, 2019.

*Meyer*

**WHEREFORE**, premises considered, the appeal is hereby **DISMISSED**. The Decision dated September 27, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09378 is **AFFIRMED with MODIFICATION** in that the accused-appellant ABC is **ORDERED** to pay the offended party AAA the following amounts: (i) ₱50,000.00 as civil indemnity; (ii) ₱50,000.00 as moral damages; (iii) ₱50,000.00 as exemplary damages; and (iv) ₱15,000.00 as fine.

All monetary awards shall earn a six percent (6%) legal interest from the date of the finality of this Decision until fully paid.

**SO ORDERED.**

*Reyes*  
**ANDRES B. REYES, JR.**  
Associate Justice

**WE CONCUR:**

*MP Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
 Senior Associate Justice  
 Chairperson

*R. P. Hernandez*  
**RAMON PAUL L. HERNANDO**  
 Associate Justice

*H. J. P. B. Inting*  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

*E. L. De los Santos*  
**EDGARDO L. DELOS SANTOS**  
 Associate Justice

**A T T E S T A T I O N**

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.

*MP Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
 Senior Associate Justice  
 Chairperson, Second Division

**C E R T I F I C A T I O N**

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.

*D. M. Peralta*  
**DIOSDADO M. PERALTA**  
 Chief Justice

*Meyer*