



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

ABC,*

G.R. No. 241591

Petitioner,

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 GAERLAN,** JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

08 JUL 2020

X ----- X

DECISION

INTING, J.:

This is a Petition for Review on *Certiorari*¹ filed pursuant to Rule 45 of the Rules of Court assailing the Decision² dated January 23, 2018 and the Resolution³ dated August 20, 2018 of the Court of Appeals (CA)

* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes;" RA 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 Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (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.

** Designated additional member per Special Order No. 2780 dated May 11, 2020.

¹ *Rollo*, pp. 13-41.

² *Id.* at 45-61; penned by Associate Justice Pedro B. Corales with Associate Justices Jose C. Reyes, Jr. (now a member of the Court) and Elihu A. Ybañez, concurring.

³ *Id.* at 63-65; penned by Associate Justice Pedro B. Corales with Associate Justices Mario V. Lopez (now a member of the Court) and Elihu A. Ybañez, concurring.

in CA-G.R. CR No. 39617 which affirmed with modification the Consolidated Judgment⁴ dated January 19, 2017 of the Family Court of Baguio City (Family Court) in Criminal Case Nos. 37118-R, 37119-R, and 37120-R finding ABC (petitioner) guilty beyond reasonable doubt for Sexual Assault defined under paragraph 2, Article 266-A of the Revised Penal Code (RPC) and penalized under Section 5(b) of Republic Act No. (RA) 7610, otherwise known as the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*.

Antecedents

Three separate Informations were filed against petitioner as follows:

Criminal Case No. 37118-R

That sometime between March 28, 2015 to March 31, 2015, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, actuated by lust, did then and there willfully, unlawfully, feloniously commit an act of lasciviousness on the person of private complainant “AAA”, a ten-year old child, by making a “push and pull” motion on the part of vagina of said “AAA”, a ten-year old child, and thereafter, mashed her breast, to her great damage and prejudice.

The offense is attended by the aggravating circumstances of minority and relationship as the accused is the grandfather of AAA.

CONTRARY TO LAW.⁵

Criminal Case No. 37119-R

That sometime between March 28, 2015 to March 31, 2015, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously commit sexual assault against “AAA”, a ten-year old minor, by inserting his finger in the anal orifice of said “AAA”, a ten-year old minor.

The offense is attended by the aggravating circumstances of minority and relationship as Accused is the grandfather of AAA.

CONTRARY TO LAW.⁶

⁴ *Id.* at 86-107; penned by Presiding Judge Mia Joy C. Oalleres-Cawed.

⁵ *Id.* at 47. Emphasis omitted.

⁶ *Id.* Emphasis omitted.

Criminal Case No. 37120-R

That sometime between March 28, 2015 to March 31, 2015, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously commit sexual assault against “AAA”, a ten-year old minor, by inserting his finger in the vagina of said “AAA”, a ten-year old minor.

The offense is attended by the aggravating circumstances of minority and relationship as accused is the grandfather of AAA.

CONTRARY TO LAW.⁷

Upon arraignment, petitioner pleaded not guilty to the crimes charged.⁸

During the trial, AAA testified that she was 10 years old and an incoming Grade 5 learner in a school in La Union at the time of the incidents. She was staying in her grandmother’s house in Baguio for a vacation when herein petitioner, who likewise resides with her grandmother, started molesting her.⁹ She testified that petitioner, whom she later identified in court, fondled her breasts and vagina. With the aid of the anatomically correct dolls, AAA demonstrated how petitioner placed his hand inside the underwear that she was wearing, groped her genitals, and inserted his forefinger inside her vagina.¹⁰

The testimonies of the medico-legal officer and the social welfare officer, who corroborated AAA’s narration were dispensed with upon stipulation of the parties.

Petitioner waived his right to testify in his defense.¹¹

⁷ *Id.* at 48. Emphasis omitted.

⁸ *Id.* at 88.

⁹ *Id.* at 89.

¹⁰ *Id.* at 91.

¹¹ *Id.* at 94.

Ruling of the Family Court

In the Consolidated Judgment¹² dated January 19, 2017, the Family Court found petitioner guilty beyond reasonable doubt for Sexual Assault in Criminal Case No. 37119-R, but acquitted him for the other crimes of Acts of Lasciviousness and the other charge for Sexual Assault. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing, accused [ABC] is found:

- a) In Criminal Case No. 37118-R, NOT GUILTY by reason of reasonable doubt;
- b) In Criminal Case No. 37119-R GUILTY beyond reasonable doubt of the offense defined under paragraph 2, Article 266-A of the Revised Penal Code and penalized under Section 5 (b) of RA 7610.

He is sentenced to suffer the indeterminate sentence of twelve (12) years and one day of *reclusion temporal* minimum as minimum to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal* as maximum.

In line with prevailing jurisprudence, he is ordered to pay AAA Php30,000.00 as civil indemnity *ex-delicto* and Php30,000.00 as moral damages or a total of Php 60,000.00, with an interest of 6% per annum from the finality of the decision until its full satisfaction.

- c) In Criminal Case No. 37120-R, NOT GUILTY by reason of reasonable doubt;

Considering that the accused has undergone preventive imprisonment, he shall be credited in the service of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for by law.

*SO ORDERED.*¹³

The Family Court found the evidence against petitioner insufficient to establish beyond reasonable doubt that he made “push and pull” motions on AAA’s vagina while mashing her breasts; thus, it acquitted him for Acts of Lasciviousness.¹⁴

¹² *Id.* at 86-107.

¹³ *Id.* at 106-107.

¹⁴ *Id.* at 95.

With respect to the other two charges for Sexual Assault, the Family Court ruled that only one instance was proven: the act of petitioner in inserting his finger inside AAA's vagina. The Family Court appreciated the spontaneous, natural, and consistent declaration of AAA that it was petitioner who molested her.¹⁵

Aggrieved, petitioner appealed his conviction and argued that the Family Court erroneously convicted him of Sexual Assault in Criminal Case No. 37119-R since the allegations therein pertained to the act of insertion of a finger into AAA's anal orifice which the Family Court itself found unsupported by evidence. He nevertheless contended that his acquittal in Criminal Case No. 37120-R should be sustained pursuant to his right against double jeopardy.

Ruling of the CA

In the Decision¹⁶ dated January 23, 2018, the CA ruled that there was a typographical error in the dispositive portion of the Family Court's Decision; clarified that the verdict clearly referred to petitioner's conviction for Rape by Sexual Assault in Criminal Case No. 37120-R and not in Criminal Case No. 37119-R; and accordingly acquitted petitioner in the latter case.¹⁷ The dispositive portion of the Decision reads:

WHEREFORE, the instant appeal is hereby DENIED. The January 19, 2017 Consolidated Judgment of the Regional Trial Court, Branch 4, Baguio City in Criminal Case Nos. 37118-R, 37119-R, and 37120-R is AFFIRMED with MODIFICATIONS. As modified and corrected, accused-appellant *ABC* is found GUILTY beyond reasonable doubt in Criminal Case No. 37120-R of rape by sexual assault under paragraph 2 of Article 266-A of the Revised Penal Code and 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, and is ordered to pay private complainant *AAA* civil indemnity, moral damages, and exemplary damages, each amounting to ₱30,000.00 which shall earn 6% interest *per annum* from the date of finality of this Decision until fully paid. *ABC* is found NOT GUILTY by reason of reasonable doubt in Criminal Case No. 37119-R. All other aspects of the Consolidated Judgment stand.

¹⁵ *Id.* at 99.

¹⁶ *Id.* at 3-12.

¹⁷ *Id.* at 51-52.

SO ORDERED.¹⁸

The CA ruled that petitioner should be convicted for Rape by Sexual Assault for his act of inserting his finger into AAA's genitals as charged in Criminal Case No. 37120-R and that the correction of the typographical error in the dispositive portion of the Family Court Consolidated Judgment would not put him in double jeopardy citing the case of *Cobarrubias v. People*¹⁹ (*Cobarrubias*).

Undeterred, petitioner filed the instant petition.

The Issues before the Court

The issues for the Court's resolution are as follows: (1) whether or not double jeopardy had set in for Criminal Case No. 37120-R; and (2) whether the conviction should be upheld with petitioner's assertion that the victim's testimony was incredible and conflicting. He contended that he was already acquitted in Criminal Case No. 37120-R; hence, his conviction therein violates his right against double jeopardy. Furthermore, petitioner reiterated that the testimony of AAA is full of inconsistencies and lapses that affect her credibility.

Our Ruling

The petition is bereft of merit.

The CA did not commit any reversible error which would warrant the exercise of the Court's discretionary appellate jurisdiction. As correctly ruled by the CA, the clear findings of the Family Court is that the prosecution failed to prove beyond reasonable doubt the guilt of petitioner in his indictment for Criminal Case No. 37119-R which charged him for his act of insertion of a finger into the victim's anal orifice; and that only one instance of Sexual Assault was established which pertained to Criminal Case No. 37120-R committed by petitioner by his insertion of a finger into AAA's genitalia. Thus, it is only just and proper to correct the dispositive portion to reflect the exact findings and conclusions of the Family Court as the Court already settled in *Cobarrubias, viz.:*

¹⁸ *Id.* at 60-61.

¹⁹ 612 Phil. 984 (2009).

The general rule is that where there is a conflict between the *fallo*, or the dispositive part, and the body of the decision or order, the *fallo* prevails on the theory that the *fallo* is the final order and becomes the subject of execution, while the body of the decision merely contains the reasons or conclusions of the court ordering nothing. However, where one can clearly and unquestionably conclude from the body of the decision that there was a mistake in the dispositive portion, the body of the decision will prevail.²⁰

In *Cobarrubias*, there was a clerical error in the *fallo* or the dispositive portion of Presiding Judge Florentino M. Alumbres' Order dated March 20, 2001, which should have dismissed Criminal Case No. 94-5038 for Homicide instead of Criminal Case No. 94-5037 for Illegal Possession of Firearms, as discussed in the body of the order. Accordingly, it was ruled therein that it was only just and proper to correct the dispositive portion to reflect the exact findings and conclusions of the trial court.

Anent petitioner's claim of violation of his right against double jeopardy, no less than the 1987 Constitution guarantees the right of the accused against double jeopardy, thus:

Section 7, Rule 117 of the 1985 and 2000 Rules on Criminal Procedure strictly adhere to the constitutional proscription against double jeopardy and provide for the requisites in order for double jeopardy to attach. For double jeopardy to attach, the following elements must concur: (1) a valid information sufficient in form and substance to sustain a conviction of the crime charged; (2) a court of competent jurisdiction; (3) the accused has been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without his express consent.²¹

However, the Court finds that the fourth element is wanting. There was indeed a valid Information for the crime of Sexual Assault in Criminal Case No. 37120-R over which the Family Court had jurisdiction and to which petitioner entered a plea of not guilty. After the trial, a judgment was rendered and promulgated, the dispositive portion of which acquitted petitioner in Criminal Case No. 37120-R, but found him guilty beyond reasonable doubt in Criminal Case No. 37119-R. What is peculiar in this case is that there was a typographical error in the docket number of the criminal cases for Sexual Assault when the Family Court interchangeably and inadvertently mistook and associated

²⁰ *Id.* at 996. Citations omitted.

²¹ *People v. Alejandro*, G.R. No. 223099, January 11, 2018, 851 SCRA 120, 127, citing *Chiok v. People*, 774 Phil. 230, 247-248 (2015).

Criminal Case No. 37120-R as the Information that indicted petitioner for the act of insertion of his finger in the anal orifice of his victim, although the body of the decision was very clear in its findings that the only crime that was proven was Sexual Assault committed by petitioner in inserting his finger into AAA's genitals. Under the foregoing circumstances, there could be no valid judgment of acquittal in Criminal Case No. 37120-R. Thus, the correction thereof is warranted; hence there is no valid acquittal in Criminal Case No. 37120-R to speak of.

As regards petitioner's contention that the court *a quo* failed to consider the inconsistencies in the prosecution's evidence, the Court agrees with the findings of both the Family Court and the CA as to the credibility of AAA who was only 10 years old at the time of the incident. The straightforward and categorical testimony of AAA and her positive identification of petitioner must prevail over the uncorroborated and self-serving denial of the latter. Moreover, AAA, being a child-victim, the Court is inclined to normally give full weight and credit to her testimony, since when a girl of tender age and immaturity says that she has been raped, or as in this case, sexually assaulted, she says in effect all that is necessary to show that rape has in fact been committed.²² A young girl's revelation that she had been raped or sexually assaulted, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.²³

Veritably, the Court sees no cogent reason to deviate from the unanimous findings and legal conclusions reached by the trial court and the appellate court with respect to the guilt of petitioner as charged. More specifically, the Court puts great weight on the factual findings of the trial judge who heard the testimonies of the witnesses and observed their demeanor while they testified. Time and again, the Court has stressed that factual findings of the trial court, including its evaluation of the credibility of witnesses and their testimonies, must be accorded respect and not be disturbed on appeal, except when the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of weight and significance, which, if considered, would have affected the result of the case.²⁴ This is especially true where, as in

²² *People v. Tulagan*, G.R. No. 227363, March 12, 2019, citing *People v. Garcia*, 695 Phil. 576, 588-589 (2012).

²³ *Id.*

²⁴ *People v. Ambatang*, 808 Phil. 236, 242 (2017), citing *People v. De Jesus*, 695 Phil. 114, 122 (2012), further citing *People v. Jubail*, 472 Phil. 527, 546 (2004).

the case herein, the trial court's findings were affirmed by the appellate court.²⁵

The Court equally holds that all the elements of Sexual Assault are present in the instant case. Contrary to petitioner's argument, it should be noted that the relationship between petitioner and his victim is sufficient for petitioner to exert "influence" upon AAA, in addition to the latter's minority.

The foregoing notwithstanding, pursuant to *People v. Tulagan*²⁶ (*Tulagan*), the nomenclature of the crime should be modified to Sexual Assault under paragraph 2, Article 266-A of the RPC, in relation to Section 5(b), Article III of RA 7610 otherwise known as the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*, considering AAA was only 10 years old when the crime was committed against her.


Similarly as to the award for damages, the Court again conforms to *Tulagan* which pegged civil indemnity for Sexual Assault under paragraph 2, Article 266-A of the RPC, in relation to Section 5(b) of RA 7610 at ₱50,000.00, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages.

WHEREFORE, the petition is **DENIED**. The Decision dated January 23, 2018 and the Resolution dated August 20, 2018 of the Court of Appeals in CA-G.R. CR No. 39617 is **AFFIRMED** with **MODIFICATION**. Accordingly, petitioner ABC is found guilty beyond reasonable doubt of Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610 in Criminal Case No. 37120-R and is sentenced to suffer the indeterminate penalty of twelve (12) years, one (1) day of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum. Petitioner ABC is further **ORDERED** to **PAY** AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages, which shall all earn interest at 6% *per annum* from finality of judgment until fully paid.

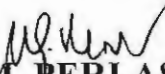
²⁵ *Bastian v. Hon. Court of Appeals, et al.*, 575 Phil. 42, 55 (2008), citing *People v. Aguila*, 539 Phil. 698, 718 (2006).

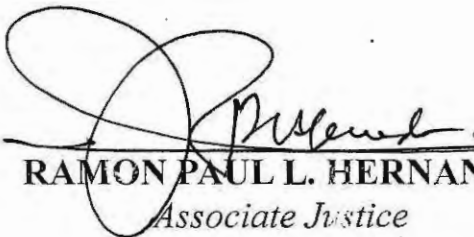
²⁶ G.R. No. 227363, March 12, 2019.


SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

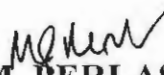

RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

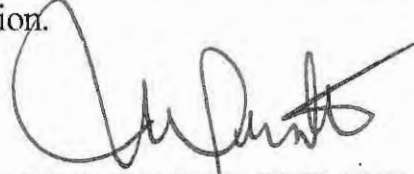
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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.

**DIOSDADO M. PERALTA***Chief Justice*