



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JAIME CAPUETA *y* ATADAY,
Petitioner,

G.R. No. 240145

Present:

PERLAS-BERNABE, *J.*,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
BALTAZAR-PADILLA, * *JJ.*

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

SEP 14 2020

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DECISION

DELOS SANTOS, *J.*:

The Case

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated January 30, 2018 and the Resolution³ dated April 23, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39353. The CA affirmed the Decision⁴ dated September 7, 2016 of the Regional Trial Court (RTC) of [REDACTED], Branch 254, which found Jaime Capueta *y* Ataday (petitioner) guilty beyond reasonable doubt of the crime of Acts of Lasciviousness under Article 336 of the Revised Penal Code (RPC), in relation to Section 5(b) of Republic Act No. (RA) 7610, also

* On leave.

¹ *Rollo*, pp. 12-29.

² Penned by Associate Justice Franchito N. Diamante, with Associate Justices Fernanda Lampas Peralta and Maria Elisa Sempio Diy, concurring; id. at 31-45.

³ Id. at 47-48.

⁴ Penned by Presiding Judge Gloria Butay Aglugub, id. at 63-69.

known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

The Facts

Petitioner was charged with violation of Section 10(a) of RA 7610 in an Information which reads:

That on or about November 16, 2008, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there wilfully, unlawfully and feloniously commit acts of child abuse on the person of AAA, a 6-year old minor by touching her legs, arms and private organ, demeaning and degrading her dignity as a child, and which act is prejudicial to her emotional and psychological development against her will and to her damage and prejudice.

CONTRARY TO LAW.⁵

Upon arraignment, petitioner pleaded not guilty to the charge. Whereupon, trial ensued.

To prove its case, the prosecution presented as witnesses the victim, AAA;⁶ the victim's mother, BBB; and *Barangay Tanod* Arnel Cariaso (*Tanod* Cariaso). The testimony of the Officer-on-Case, Police Officer II Rhona Mea Padojinog (PO2 Padojinog),⁷ was likewise presented but her testimony was dispensed with after the prosecution and the defense agreed to stipulate thereon.⁸

The evidence of the prosecution showed that in the afternoon of November 16, 2008, AAA and her brother were at the house owned by petitioner's sister. They were playing *bahay-bahayan* with their friend "Len-len" at the foot of the stairs when petitioner came down from the second floor. Upon reaching them at the stairway, petitioner suddenly lifted AAA's skirt, touched her right thigh and vagina, and then left. Horrified by what petitioner did to her, AAA ran home crying and reported the incident to BBB.⁹

⁵ Id. at 63.

⁶ In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records, and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims. To note, the unmodified CA Decision was not attached to the records to verify the real name of the victim.

⁷ Formerly Police Officer I (PO1).

⁸ *Rollo*, p. 64.

⁹ Id.

When BBB learned about what petitioner had done, she immediately confronted petitioner but the latter denied doing anything wrong and instead uttered invectives at her. Petitioner then threatened to punch BBB prompting the latter to bring her daughter to the *barangay* hall and report to the authorities.¹⁰

Upon receiving the report of AAA and BBB, *Tanod* Cariaso, together with his fellow *tanods*, apprehended petitioner and brought him to the district hospital for medical examination. Thereafter, the *tanods* accompanied AAA and BBB to the Women and Children's Protection Desk of the [REDACTED] Police Station where they executed their sworn statements before PO1 Padojinog. Petitioner was then turned over to the police authorities.¹¹

After presenting the testimonies of the witnesses, the prosecution formally offered the following documentary evidence: (1) *Sinumpaang Salaysay* of AAA, stating that petitioner had molested her; (2) *Sinumpaang Salaysay* of BBB, stating that she is the mother of AAA and that upon learning what petitioner had done, she accompanied her daughter to the *barangay* hall to report the incident; (3) *Sinumpaang Salaysay* of *Tanod* Cariaso stating that he and his fellow *tanods* arrested petitioner after receiving the report of AAA and BBB; (4) Birth Certificate of AAA showing her date of birth as February 22, 2002; and (5) Investigation Report dated November 18, 2008 prepared by Officer-on-Case, PO1 Padojinog.¹²

In his defense, petitioner denied the charge and testified that in the afternoon of November 16, 2008, he was taking a nap on the second floor of their house. When he had woken up, he wanted to buy some cigarettes. As he was going down the narrow stairway, he tripped and fell to where AAA was standing causing him to accidentally hit AAA. Petitioner then got up and apologized to AAA and then proceeded to the store to buy cigarettes. When petitioner returned home, BBB suddenly began hitting him and accused him of molesting her daughter. BBB thereafter lodged a complaint against him at the *barangay* hall. BBB also demanded for him to pay the amount of ₱50,000.00 by way of settlement, but when he refused, the case was filed against him.¹³

The Ruling of the RTC

The RTC held that while petitioner was charged with violation of Section 10(a) of RA 7610, the facts established during the course of the trial

¹⁰ Id. at 64-65.

¹¹ Id. at 65.

¹² Id.

¹³ Id. at 65-66.

showed that the crime actually committed by petitioner is sexual abuse through lascivious conduct and found petitioner to be instead guilty beyond reasonable doubt of violation of Section 5(b), Article III of RA 7610.¹⁴ The RTC then rendered a Decision¹⁵ convicting petitioner, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, the Court hereby finds accused JAIME CAPUETA y ATADAY *GUILTY* beyond reasonable doubt of violation of Section 5(b), Article III of Republic Act No. 7610, and is hereby sentenced to TWELVE (12) YEARS, TEN (10) MONTHS and TWENTY-ONE (21) DAYS of reclusion temporal as minimum, to FIFTEEN (15) YEARS, SIX (6) MONTHS and TWENTY (20) DAYS of reclusion temporal as maximum; and to pay *AAA*, the amount of TWENTY THOUSAND (₱20,000.00) PESOS as civil indemnity; FIFTEEN THOUSAND (₱15,000.00) PESOS as moral damages; and FIFTEEN THOUSAND (₱15,000.00) PESOS as fine, the amounts of which shall all bear interest at the rate of six (6%) percent per annum from the date of finality of this judgment until fully paid.

SO ORDERED.¹⁶

The RTC gave full faith and credence to the testimony of *AAA*, pointing out that despite her tender age, she did not waiver in her accusation that petitioner molested her by lifting up her skirt and touching her legs, thighs, and vagina. The RTC added that *AAA*'s act in immediately reporting the incident to *BBB* and to the authorities belied any doubt on her credibility.¹⁷

On the contrary, the RTC found petitioner's denial of the charge to be unconvincing for being weak in the face of the positive testimony of *AAA*. The RTC further pointed out that petitioner even admitted being at the scene of the crime at the exact time and date of its commission.¹⁸

The Ruling of the CA

The CA affirmed the ruling of the RTC that the prosecution had duly proven the elements of the crime of Acts of Lasciviousness, under the RPC, as well as lascivious conduct under Section 5(b) of RA 7610. The CA held that the prosecution was able to prove *AAA*'s minority at the time of the incident and that petitioner exercised intimidation over *AAA* and committed lascivious conduct against her by touching her legs, arm, and vagina.¹⁹

¹⁴ Id. at 66-68.

¹⁵ Id. at 63-69.

¹⁶ Id. at 69.

¹⁷ Id. at 68.

¹⁸ Id. at 68-69.

¹⁹ Id. at 35-42.

The CA upheld the credibility of AAA noting that she remained consistent in her account of the horrid experience in the hands of petitioner and even maintained that petitioner's act of touching her vagina was intentional.²⁰ On the other hand, the CA rejected petitioner's denial and lack of intent on the part of petitioner for his failure to present clear and convincing evidence to support his claim.²¹

The CA, however, modified the penalty imposed by the RTC noting the absence of mitigating or aggravating circumstances in the commission of the crime. The CA then rendered the herein assailed Decision,²² the dispositive portion of which reads:

WHEREFORE, the instant appeal is **DENIED**. The September 7, 2016 *Decision* of the [REDACTED] Regional Trial Court, Branch 254, (RTC) in the case docketed as Criminal Case No. 08-0956 is hereby **AFFIRMED WITH MODIFICATION** in that the accused-appellant is hereby sentenced to suffer an indeterminate penalty of *twelve (12) years and one (1) day of reclusion temporal in its minimum period, as minimum, to fifteen (15) years, six (6) months, and twenty (20) days of reclusion temporal in its medium period, as maximum.*

All other aspects of the *fallo* of the assailed Decision **STAND**.

SO ORDERED.²³

The Issue

Whether the CA committed grave error in affirming the RTC's ruling that petitioner is guilty beyond reasonable doubt of Acts of Lasciviousness, in relation to Section 5(b) of RA 7610.

Petitioner's Arguments

Petitioner contends that the prosecution failed to prove all the elements of Section 5(b) of RA 7610. First, petitioner asserts that criminal intent on his part is wanting since the records are bereft of any evidence showing that he had the intention of touching, either directly or indirectly, the private parts of AAA. Petitioner likewise argues that the Information filed against him did not allege the presence of the second element of Section 5(b), *i.e.*, that the act is performed with a child exploited in prostitution or subjected to other sexual abuse, and that neither was there an attempt on the part of the prosecution to prove the same. Thus, his

²⁰ Id. at 39-40.

²¹ Id. at 38 and 42-43.

²² Id. at 31-45.

²³ Id. at 44.

constitutional right to be informed of the nature and cause of accusation against him was violated.

The Ruling of the Court

The Court finds no merit in the petition.

Section 5(b), Article III of RA 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.

The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

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 victims 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 elements of sexual abuse under Section 5, Article III of RA 7610 are as follows:

1. The accused commits the act of sexual intercourse or *lascivious conduct*;
2. The said act is performed with a child exploited in prostitution or *subjected to other sexual abuse*; and
3. The child, whether male or female, is *below 18 years of age*.²⁴

Concomitantly, pursuant to Section 5(b) of RA 7610, when the victim is under 12 years of age, the perpetrator shall be prosecuted under Article

²⁴ *Monroy v. People*, G.R. No. 235799, July 29, 2019.

336 of the RPC for lascivious conduct, which requires the presence of the following elements for its commission: (a) the offender commits any **act of lasciviousness or lewdness**; (b) the lascivious act is done under any of the following circumstances: (i) by using force or intimidation; (ii) when the offended party is deprived of reason or otherwise unconscious; or (iii) **when the offended party is under twelve (12) years of age**; and (c) the offended party is another person of either sex.²⁵

All the elements of sexual abuse under Section 5 of RA 7610 and Acts of Lasciviousness under the RPC have been proven by the prosecution beyond reasonable doubt in the present case.

First element. It has been proven beyond reasonable doubt that petitioner committed lascivious conduct against AAA. Lascivious conduct is defined in Section 2(h) of the Implementing Rules and Regulations (IRR) of RA 7610 as:

The intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person.²⁶

In this case, the trial court found AAA's testimony that petitioner molested her by lifting up her skirt and touching her legs, thighs, and vagina to have been given in a clear, candid, and categorical manner, worthy of faith and belief. Moreover, AAA positively identified petitioner as her molester.

In *Quimvel v. People*,²⁷ the Court ruled:

Well-settled is the rule that, absent any clear showing of abuse, arbitrariness or capriciousness committed by the lower court, its findings of facts, especially when affirmed by the Court of Appeals, are binding and conclusive upon this Court. This is so because the observance of the deportment and demeanor of witnesses are within the exclusive domain of the trial courts. Thus, considering their unique vantage point, trial courts are in the best position to assess and evaluate the credibility and truthfulness of witnesses and their testimonies.²⁸

²⁵ *Fianza v. People*, 815 Phil. 379, 389-390 (2017).

²⁶ *Awes v. People*, 811 Phil. 700, 709 (2017).

²⁷ 808 Phil. 889, 927-928 (2017).

²⁸ *Id.* at 927-928.



Petitioner's defense that he had no criminal intent or lewd design necessarily fails in the face of the competent and firm testimony of AAA that petitioner groped her private parts with the intent of molesting and demeaning her. Moreover, petitioner's alibi that he merely tripped and fell from the stairs causing him to accidentally hit AAA was not only unsubstantiated, it was successfully belied by AAA. Even on cross examination, AAA remained consistent in her testimony that petitioner did not fall or stumble from the stairs but that petitioner in fact approached her, reached for her legs before he lifted her skirt and touched her vagina. As the CA aptly ratiocinated, the fact that AAA went home crying and terrified after what petitioner had done clearly demonstrated that she was intimidated by petitioner and was subjected to an act so malicious and appalling that she felt violated. The Court has repeatedly held that when the offended parties are young and immature girls, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the shame and embarrassment to which they would be exposed if the matter about which they testified were not true.²⁹

Second element. The fact that petitioner performed the lewd acts with a child within the purview of sexual abuse is established.

In *Quimvel*, the Court held that Section 5, paragraph (b) of RA 7610 which punishes sexual intercourse or lascivious conduct committed on a child subjected to other sexual abuse covers not only a situation where a child is abused for profit but also one in which a child, through coercion, intimidation or influence, engages in sexual intercourse or lascivious conduct. Hence, the law punishes not only child prostitution but also other forms of sexual abuse against children.³⁰

As case law has it, intimidation need not necessarily be irresistible. In *People v. Tulagan*,³¹ the Court further explained:

It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. This is especially true in the case of young, innocent and immature girls who could not be expected to act with equanimity of disposition and with nerves of steel. Young girls cannot be expected to act like adults under the same circumstances or to have the courage and intelligence to disregard the threat.³²

²⁹ *People v. Sanico*, 741 Phil. 356, 374 (2014).

³⁰ *Id.* at 917.

³¹ G.R. No. 227363, March 12, 2019.

³² *Id.*

Moreover, the absence of force or intimidation is immaterial where the victim of the acts of lasciviousness is below 12 years of age,³³ such as in this case.

Third element. AAA's minority was duly established by her birth certificate which shows that she was only at the tender age of six (6) years old when the crime was committed.

Contrary to the contention of petitioner, the Information filed against him sufficiently alleged the element that the lascivious act was committed against a child subjected to sexual abuse. While the Information charged petitioner of violation of Section 10(a) of RA 7610, his conviction of Section 5(b), Article III of the same Act did not violate petitioner's constitutional right to be informed of the nature and cause of accusation against him. The Court held in *Tulagan*:³⁴

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.³⁵

In *Escalante v. People*,³⁶ the Court further explained that:

It is doctrinal that it is not the title of the complaint or information which is controlling but the recital of facts contained therein. The information must sufficiently allege the acts or omissions complained of to inform a person of common understanding what offense he is being charged with — in other words the elements of the crime must be clearly stated. x x x.³⁷

In this case, the body of the Information charging petitioner contains an averment of the acts committed which unmistakably describes acts punishable under Section 5(b), Article III of RA 7610. The Information evidently recites the ultimate facts and circumstances constituting the offense for which petitioner was found guilty of. The Information, in fact, specifically alleges that petitioner committed acts of child abuse. Hence, petitioner cannot be said to have not been apprised of the nature and cause of accusation against him. The absence of the phrase "exploited in prostitution or subject to other sexual abuse" or even the specific mention of "coercion"

³³ See *Awas v. People*, supra note 26, at 707.

³⁴ *People v. Tulagan*, supra note 31.

³⁵ Id.

³⁶ 811 Phil. 769 (2017).

³⁷ Id. at 782.

or “influence” is not a bar for the Court to uphold the finding of guilt against an accused for violation of RA 7610.³⁸

In fine, both the Information and the evidence on record spell out a case of child abuse through lascivious conduct punishable under Section 5(b) of RA 7610. Perforce, the Court finds no reason to reverse the CA’s finding of guilt beyond reasonable doubt against petitioner.

Anent the proper penalty to be imposed, under Section 5 of RA 7610, the penalty for lascivious conduct, when the victim is under 12 years of age, shall be *reclusion temporal* in its medium period, which ranges from 14 years, eight (8) months and one (1) day to 17 years and four (4) months. Accordingly, applying the Indeterminate Sentence Law,³⁹ the maximum term of the indeterminate penalty shall be that which could be properly imposed under the law, which is 15 years, six (6) months and 20 days of *reclusion temporal*. On the other hand, the minimum term shall be within the range of the penalty next lower in degree, which is *reclusion temporal* in its minimum period, or 12 years and one (1) day to 14 years and eight (8) months.⁴⁰ Thus, the CA properly imposed the indeterminate penalty of 12 years and one (1) day of *reclusion temporal* in its minimum period, as minimum, to 15 years, six (6) months, and 20 days of *reclusion temporal* in its medium period, as maximum.

The Court, however, deems it prudent to revise the award of damages in order to conform with recent jurisprudence. In *Tulagan*, the Court has declared that in cases of Acts of Lasciviousness under Article 336 of the RPC, in relation to Section 5(b) of RA 7610, the award of civil indemnity and moral damages should now be fixed in the amount of ₱50,000.00 each, taking into account that the imposable penalties for the said crimes are within the range of *reclusion temporal*. Moreover, in order to deter deleterious and wanton acts of elders who abuse and corrupt the youth, exemplary damages in the amount of ₱50,000.00 should likewise be awarded.

WHEREFORE, the instant Petition for Review on *Certiorari* is **DENIED**. Accordingly, the Decision dated January 30, 2018 and the Resolution dated April 23, 2018 of the Court of Appeals in CA-G.R. CR No. 39353 are hereby **AFFIRMED** with **MODIFICATION** on the award of damages. Petitioner Jaime Capueta y Ataday is **ORDERED** to pay the victim, AAA, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages. An interest at the

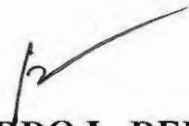
³⁸ See *Quimvel v. People*, supra note 27.

³⁹ Act No. 4103, as amended.

⁴⁰ *People v. Tulagan*, supra note 31.

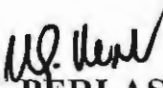
legal rate of six percent (6%) *per annum* is also imposed on the total judgment award computed from the finality of this Decision until fully paid.


SO ORDERED.

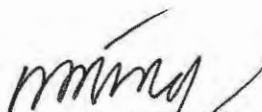


EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
 Senior Associate Justice
 Chairperson

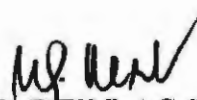

RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice

(On Leave)
PRISCILLA J. BALTAZAR-PADILLA
 Associate Justice

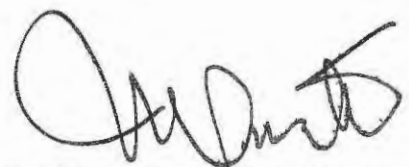
ATTESTATION

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, 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.


DIOSDADO M. PERALTA
 Chief Justice