



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

ALLAN DE VERA *y* ANTE,
 Petitioner,

G.R. No. 246231

Present:

LEONEN, J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 ROSARIO,* JJ.

- versus -

PEOPLE OF THE
 PHILIPPINES,
 Respondent.

Promulgated:

January 20, 2021

MisDOCBat

X-----X

DECISION

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated September 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39723, finding petitioner Allan De Vera *y* Ante (petitioner) guilty beyond reasonable doubt of the crime of Violation of Section 10, paragraph (a) of Republic Act (R.A.) No. 7610, otherwise known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

The Facts

Herein petitioner was charged with the crime of Violation of Section 5, paragraph (b) of R.A. No. 7610 in the Information, which accusatory

* On official leave.

¹ *Rollo*, pp. 33-66.

² Penned by Associate Justice Pedro B. Corales, with Associate Justices Jane Aurora C. Lantion and Ronaldo Roberto B. Martin, concurring; *id.* at 68-87.

portion reads as follows:

That on or about the 7th day of July 2012 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully and unlawfully commit acts of lascivious conduct upon the person of AAA,³ a minor, 16 years of age, by then and there fondling his penis and masturbating while he was beside the complainant who was then taking her examination at the XXX University, thereby prejudicing her psychological and physical development and further debasing, degrading, or demeaning the intrinsic worth and dignity of said AAA, as human being, to the damage and prejudice of said offended party.

CONTRARY TO LAW.⁴

Upon arraignment, petitioner pleaded not guilty to the offense charged. After the Pre-trial Conference, trial on the merits ensued.

Version of the Prosecution

AAA, a 16-year-old, first year college student of the XXX University, is the private complainant in this case. AAA is both a Philippine and an American citizen, who was born and raised in the United States. The family moved back to the Philippines when AAA was in high school. In 2012, AAA enrolled at the XXX University as a first year college student.⁵

AAA testified that at around 8:30 a.m. of July 7, 2012, she went to the Filipino Department of the school to ask for her class section under the Special Filipino Program. Alone in the office was petitioner, who asked her if she wanted to take the Filipino for Foreigners Diagnostic Exam. AAA then agreed to take the exam since it is a requirement for the Special Filipino Program.⁶

Petitioner then made her take the diagnostic exam inside the Mini-Library of the Filipino Department. AAA sat on the couch and answered the exam on the coffee table inside the Mini-Library. Petitioner was standing approximately less than a meter away to the left of AAA and was facing a bookshelf.⁷

³ 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.

⁴ *Rollo*, p. 69.

⁵ *Id.* at 212.

⁶ *Id.* at 212-213.

⁷ *Id.* at 213.

While taking the exam, AAA heard a tapping sound, which she initially ignored. The tapping sound sounded like clapping or like skin slapping against skin. When the sound got louder, she looked to where the sound was coming from and saw the petitioner masturbating. AAA testified that she saw the petitioner holding a binder on the left hand while his right hand was masturbating his penis.⁸

Afraid, AAA calmly packed her things, got up from the couch and told petitioner that she would continue her exam at the reception area of the Filipino Department. When AAA finished the exam, she handed her completed exam to petitioner who has come out to the reception area from the Mini-Library.⁹

AAA immediately ran out of the office and told her classmate CCC what she saw in the Mini-Library. Upon the advice of CCC, AAA called her mother, BBB, who instructed her daughter to report the matter to the University Security Office. When BBB arrived at the university, she was told that the petitioner was already brought to the police station. BBB and AAA then went to the police station to file a formal complaint against the petitioner.¹⁰

Version of the Defense

Petitioner, on his part, denied the accusations of the private complainant. Petitioner claimed that on the day of the incident, he was assigned to arrange the books at the Tinio Mini-Library. The library is adjacent to the Filipino Department's reception area and was well-lit as it is frequented by professors, students, employees, and even visitors.¹¹

Petitioner's supervisor Imelda Agbayani Estrelles (Estrelles), called petitioner's attention that the zipper of his Guess pants was broken. There was a vertical tear along the right sideline of the zipper. Since he is only required to work half-day on a Saturday and he lived in Antipolo, petitioner decided to pull the pants upward and his clothes downward as it is too impractical to go home and change clothes.¹²

Petitioner was assigned by Professor Carlota Francisco to administer a special diagnostic exam to students of the Filipino for Non-Filipino Speakers course.¹³

⁸ Id. at 213.

⁹ Id. at 214.

¹⁰ Id. at 214-215.

¹¹ Id. at 35.

¹² Id.

¹³ Id. at 36.

Petitioner admitted that AAA decided to take the diagnostic examination despite having a 9:00 a.m. class that day. Since he was tasked to arrange the books inside the Mini-Library, petitioner decided to let AAA take the exam therein. While AAA was taking the exam, the library door was open and the petitioner just stood less than one meter away from AAA facing the cabinet. The petitioner had one hand arranging the books on the shelf while the other hand was carrying books to be shelved.¹⁴

Five minutes after, AAA asked petitioner if she could finish taking her exam in the reception area. Estrelles saw AAA took the exam in the reception area and was able to finish it in 20 to 30 minutes. AAA then handed the exam papers back to petitioner.¹⁵

A few minutes after 9:00 a.m., petitioner was surprised upon the arrival of the university's security officers, who arrested him based on the allegations of AAA that he masturbated in her presence while she was taking the exam. The security officers brought him to the police station. Thereat, petitioner's underwear was even inspected to check if there were some traces of discharge. The person who conducted the inspection found no discharge on petitioner's underwear.¹⁶

The XXX University formed an *ad hoc* disciplinary committee, which cleared the petitioner of the alleged masturbation incident.

Nonetheless, the private complainant pursued a criminal case against the petitioner.

The Ruling of the RTC

The RTC found petitioner guilty of the crime of violation of Section 5(b) of R.A. No. 7610. The RTC held that under Section 2(h) of the Rules and Regulations on Reporting and Investigation of Child Abuse Cases, masturbating is considered a lascivious conduct. Considering that petitioner committed a lascivious act in front of the child victim who was only 16 years old and the latter was deemed to have been subjected to other sexual abuse, petitioner must be convicted of the crime charged. The RTC gave great weight on the positive and candid manner by which the child victim testified as to how petitioner masturbated in her presence. The RTC also held that the testimony of the child victim will have to prevail over the defense of denial of the petitioner.¹⁷

¹⁴ Id. at 37.

¹⁵ Id. at 38.

¹⁶ Id. at 39-40.

¹⁷ Id. at 131-132.

The dispositive portion of the RTC Decision is hereby reproduced, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Allan De Vera y Ante guilty beyond reasonable doubt of the crime of Violation of Section 5, paragraph (b) of Republic Act No. 7610 and is hereby sentenced to suffer the penalty of eight (8) years and one (1) day of *prision mayor* as minimum to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal* as maximum and to pay the cost.

Accused is further ordered to pay private complainant AAA P20,000.00 as civil indemnity, P30,000.00 as moral damages and P2,000.00 as exemplary damages.

SO ORDERED.¹⁸

The Ruling of the CA

On appeal before the CA, petitioner interposed the following arguments: (a) that there was no sufficient proof that the child saw him actually masturbating; and (b) the prosecution failed to prove the elements of Section 5(b) of R.A. No. 7610. Petitioner averred that there was no evidence on record to support the conclusion that he committed a lascivious act and that such act was performed with a child exploited in prostitution or subjected to other sexual abuse.¹⁹

The CA partly granted petitioner's appeal and modified the RTC Decision. The CA held that while petitioner cannot be convicted under Section 5(b) of R.A. No. 7610, the elements under Section 10(a) were duly established in this case. The CA held that the act of masturbating in the presence of the child is considered another act of abuse because it is prejudicial to the development of the child. The CA further opined that even if the Information did not specifically charge petitioner with child abuse under Section 10(a) of R.A. No. 7610, he may still be convicted of the said offense considering that the prosecution was able to prove all the elements of the said crime.²⁰

The *fallo* of the now-assailed CA Decision reads as follows:

WHEREFORE, the instant appeal is PARTLY GRANTED. The August 2, 2016 Decision of the Regional Trial Court, Branch 94, Quezon City in Criminal Case No. Q-12-177236 is AFFIRMED with

¹⁸ Id. at 134.

¹⁹ Id. at 91.

²⁰ Id. at 84.



MODIFICATIONS. As modified, accused-appellant Allan de Vera y Ante is found guilty beyond reasonable doubt of child abuse as defined and punished under Section [10(a)] of Republic Act No. 7610. He is sentenced to an indeterminate sentence of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum and is ordered to pay private complainant P10,000.00 civil indemnity and P20,000.00 moral damages with 6% interest [per annum] from the date of finality of this Decision until fully paid.

SO ORDERED.²¹

Undaunted, petitioner elevated the case before the Court *via* a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court.

The Issue

Whether the CA erred in convicting the petitioner of the crime of violation of Section 10(a) of R.A. No. 7610.

The Court's Ruling

The petition is without merit.

Herein petitioner insists on his innocence and alleges that the ruling of the CA is not in accord with applicable law and jurisprudence. Herein petitioner claims that based on the account of the minor victim, the act of masturbation was not done with the participation of and was not directed at her, hence, he should be penalized with unjust vexation under Article 287 of the Revised Penal Code (RPC) as it basically punishes acts which is intended to cause emotional distress.

As the factual milieu of the case reveals, petitioner was initially charged and convicted before the RTC of Violation of Section 5(b) of R.A. No. 7610. On appeal, the CA held that there was no sufficient basis to hold petitioner liable under Section 5(b) of R.A. No. 7610 considering that the prosecution failed to prove that the minor was subjected to other sexual abuse. Instead, the CA convicted petitioner of violation of Section 10(a) of R.A. No. 7610 considering that the act of intentional masturbation in the presence of the minor victim constitutes psychological abuse and is considered an act which debases, degrades, or demeans the intrinsic worth and dignity of a child as a human being.

²¹ Id. at 86-87.

After a judicious evaluation of the record of this case, the Court finds that the ruling of the CA is within the bounds of law and relevant jurisprudence.

The act of masturbation is punishable under Section 10(a) of R.A. No. 7610.

Section 10(a), Article VI of R.A. No. 7610 reads:

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

From the foregoing, Section 10(a) of R.A. No. 7610 punishes not only those enumerated under Article 59 of Presidential Decree No. 603, but also four distinct acts, namely: (a) child abuse, (b) child cruelty, (c) child exploitation, and (d) being responsible for conditions prejudicial to the child's development.²² Simply put, Section 10(a) of R.A. No. 7610 punishes any other acts of child abuse not covered under other provisions of the same law.

In relation thereto, Section 3(b) of R.A. No. 7610 defines child abuse as:

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

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; [or]
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

²² *Del Poso v. People*, 802 Phil. 713, 724 (2016).

Taking into account the special circumstances surrounding the case at bench, the act of masturbating in the presence of the minor is considered a lascivious conduct and constitutes psychological abuse on the minor victim. The act of masturbation then falls within the scope of R.A. No. 7610 and not the RPC.

The Implementing Rules and Regulations of R.A. No. 7610 defines “lascivious conduct” 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. (Emphasis supplied)

In relation thereto, in *Amplayo v. People*,²³ the Court illustrated what a “lewd” act means, *viz.*:

The term “lewd” is commonly defined as something indecent or obscene; it is characterized by or intended to excite crude sexual desire. That an accused is entertaining a lewd or unchaste design is necessarily a mental process the existence of which can be inferred by overt acts carrying out such intention, *i.e.*, by conduct that can only be interpreted as lewd or lascivious. The presence or absence of lewd designs is inferred from the nature of the acts themselves and the environmental circumstances. What is or what is not lewd conduct, by its very nature, cannot be pigeonholed into a precise definition. As early as *U.S. v. Gomez* we had already lamented that —

It would be somewhat difficult to lay down any rule specifically establishing just what conduct makes one amenable to the provisions of article 439 of the Penal Code. What constitutes lewd or lascivious conduct must be determined from the circumstances of each case. It may be quite easy to determine in a particular case that certain acts are lewd and lascivious, and it may be extremely difficult in another case to say just where the line of demarcation lies between such conduct and the amorous advances of an ardent lover.

The Court concurs with the CA that even if the Information did not categorically state that petitioner is charged with Section 10(a) of R.A. No. 7610, he may still be convicted of the same. The failure to specifically indicate the aforesaid provision is not deemed fatal so as to violate petitioner’s right to be informed of the nature and cause of accusation

²³ 496 Phil. 747, 756 (2005).

against him.²⁴ In *Olivarez v. Court of Appeals*,²⁵ the Court held that despite the absence of the specific provisions of R.A. No. 7610, which were violated by the accused, what is determinative of the offense is the recital of the ultimate facts and circumstances in the complaint or information.²⁶

In the case at bench, the Information alleged sufficiently all the elements constituting the crime of other forms of child abuse penalized under Section 10(a) of R.A. No. 7610, namely: (a) the minority of the victim; and, (b) the acts constituting physical or psychological abuse committed by petitioner against the victim — petitioner fondled his penis and masturbated in the presence of the victim thereby prejudicing her psychological and physical development and further debasing, degrading and demeaning her intrinsic worth and dignity.

Thus, despite the absence of the attendance of coercion and influence in petitioner's act to constitute other sexual abuse, which is punishable under Section 5(b) of R.A. No. 7610, the CA properly ruled that the act is still punishable as other forms of child abuse under Section 10(a) of R.A. No. 7610.

As regards petitioner's insistence that he should be convicted with the crime of unjust vexation, this contention is utterly without merit. The purpose of the crime of unjust vexation is to cause annoyance, irritation, torment, distress, or disturbance to the mind of the person to whom it was directed.²⁷ However, there is overwhelming evidence on record and applicable jurisprudence which support the ruling of the CA that the act of masturbating is not just an act to vex the minor victim, but such was done intentionally to excite crude sexual desire on account of the minor victim.

Again, the law specifically classifies masturbation as a lascivious conduct, which basically aims to satiate the sexual desire of the doer. The effect of masturbation on the minor victim or the "audience" is far from only evoking emotions of irritation or annoyance. In this case, the lascivious act of masturbating caused the minor victim to suffer anxiety and trauma. This specie of psychological abuse is basically one of the acts aimed to be punished under R.A. No. 7610. While the petitioner asserts that the child victim may have suffered traumatic experience in the past which caused her to wrongly infer the acts of the petitioner as masturbating, such postulations are purely based on surmises and conjectures and cannot outweigh the direct, positive, and unwavering testimony of the victim that she saw the petitioner masturbating his penis.

²⁴ *People v. Eulalio*, G.R. No. 214882, October 16, 2019.

²⁵ 503 Phil. 421 (2005).

²⁶ *Id.* at 439.

²⁷ *People v. Sumingwa*, 618 Phil. 650, 673 (2009).

As mentioned earlier, herein petitioner postulates that he should only be convicted of unjust vexation since the act was not done with the participation of or was directed at the minor victim. This position must fail. The fact that the act of masturbation was done by him (an employee of an educational institution) while the student was taking an examination clearly establishes that the act was intentional and directed towards the minor victim. Notwithstanding that the lewd act was done without the participation of the minor victim and even if petitioner was facing the bookshelf, it is worthy to emphasize that petitioner was fully aware that the minor victim was only an arm's length away from him in a small room. This leads to the conclusion that the act of masturbating was not merely a personal and private act of pleasure on the part of the petitioner nor can it be deemed to have been done to cause vexation or annoyance on the victim, rather it was done with lewd designs.

Other than the psychological abuse caused by petitioner's masturbation, the Court concurs with the RTC and the CA that such act is debasing, degrading, demeaning and is prejudicial to the child victim's development. To debase is to reduce the quality or purity of something. To degrade is to lessen the quality or character of the person. And to demean is to lower the character or condition of a person.²⁸ Indeed, a student is expected to feel secure within the school premises and under the care of the school's faculty and employees. The feeling of being violated and the anxiety suffered by the minor student upon witnessing a school employee masturbating in her presence inside the school campus undoubtedly tarnished her purity, quality, character, and dignity. In *Lucido v. People*,²⁹ the Court held that the crime committed under R.A. No. 7610 is *mala prohibita*, thus, the intent to debase, demean, and/or degrade is not a defining mark. Any lascivious conduct that results to the debasing, demeaning, and degrading of the intrinsic worth and dignity of a child is deemed to constitute the offense, as in this case.

Petitioner likewise assails the credibility of the minor victim and attempts to discredit her testimonies due to some alleged inconsistencies. The inconsistencies relied upon by the petitioner are so trivial and do not affect the probative value of the testimony of the child victim. Herein petitioner insists that his testimony is more credible than that of the minor victim. Notably, the CA did not disturb the appreciation of the RTC of the minor victim's testimony. As a rule, the assessment of the trial court on the credibility and trustworthiness of the minor victim is generally accorded respect and even finality when upheld and undisturbed by the CA.³⁰ Unless substantial facts and pieces of evidence were patently overlooked, misappreciated or misunderstood, the findings of fact of the RTC and the CA

²⁸ *Jabalde v. People*, 787 Phil. 255, 270 (2016).

²⁹ *Lucido v. People*, 815 Phil. 646 (2017).

³⁰ *People v. BBB*, G.R. No. 232071, July 10, 2019.

will not be disturbed by the Court.³¹

At any rate, the minor victim's testimony weathered the duress of direct and cross-examinations and she did not waiver on her account of the sordid details of the act of masturbation by petitioner. To elucidate, an excerpt of the minor victim's testimony is hereby reproduced:

ATTY. PANGANIBAN

Q I am asking you that, [AAA], because in your Judicial Affidavit, you said that you saw the accused holding his penis...

A I saw the accused holding his penis and masturbating motion. A masturbating motion, I mean, holding his penis and moving it back and forth, that is masturbation motion.

Q So you saw with your two (2) own eyes that he was doing it?

A Yes.

Q Where were you at that time?

A I was sitting down.

Q You were sitting down and the accused was where?

A In the library.

Q Can you demonstrate to the Court how far the accused was?

COURT

The distance.

WITNESS

If you could stand here, this is how close he was and turn to me.

COURT

Was he seated or standing?

A He was standing, facing here, that's how close he was.

x x x x

COURT

You agree, what is the distance.

ATTY. DE RAMOS

One (1) meter, your honor.

ATTY. BAGARES

It's less than one meter.

COURT

Is she facing you?

³¹ *Sanchez v. People*, 606 Phil. 762, 779 (2009).

WITNESS

To be with the table in front of me here that's why I was taking the test while I was sitting down on a couch...

COURT

So where was he?

WITNESS

He was standing here.

COURT

Facing what?

WITNESS

He was facing...

COURT

A wall?

WITNESS

No, he was facing the cabinet or the library where there are books. He was actually holding a book or folder or binder and then his other hand was over here...

COURT

He was holding a book or folder or binder, with what hand?

WITNESS

With his left hand, he was holding a binder, folder, whatever it may be. And his right hand was over here.

x x x x

ATTY. PANGANIBAN

Was it really possible for her to see all three (3) things, face all three (3) things at the same time?

A Yes ma'am. I was taking my exam, it was on a coffee table, it was more of a couch than a chair and I was sitting down and I was taking my test. And as I have stated in my Affidavit, I heard a tapping motion first before I turn my head, I saw him masturbating.³²

The Court reiterates that petitioner's defenses of denial and alibi cannot prevail over the straightforward, detailed, and consistent testimony of the minor victim.³³ Denial and alibis are inherently weak defenses, unless substantiated by clear and convincing evidence.³⁴

Herein petitioner also theorizes that the minor victim could not have witnessed any act of masturbation considering that she was still able to

³² TSN, November 5, 2012, pp. 51-59; *rollo*, pp. 78-81.

³³ See *People v. Rupal*, 834 Phil. 594, 613 (2018).

³⁴ *Quimvel v. People*, 808 Phil. 889, 931-932 (2017).

finish the exam and the employees at the reception area did not observe anything unusual on her behavior. Time and time again, the Court has stressed that people have different reactions to stressful or traumatic experiences — others may shout, faint, resist, run, some may openly welcome the intrusion and some may look calm on the outside, as in this case. However, any of these reactions do not impair or taint the credibility of the victim of child abuse.³⁵ The Court concurs with the observation of the CA that the fact that the minor victim immediately relayed the incident to her friend and without delay reported the same to her mother are indications that the minor victim felt violated and distressed by what she witnessed.³⁶

The Penalty and Damages

Section 10(a) of R.A. No. 7610 provides that for persons who committed other acts of child abuse, the penalty is *prision mayor* in its minimum period, which ranges from six (6) years and one (1) day to eight (8) years of imprisonment. Applying the Indeterminate Sentence Law, and in the absence of any mitigating and aggravating circumstances, the CA did not err when it imposed the penalty of four (4) years, nine (9) months and 11 days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

As regards the award of damages, the Court hereby increases the award imposed by the CA to the following amounts: (1) ₱50,000.00 as civil indemnity and (2) ₱50,000.00 as moral damages. The Court also reinstates the award of exemplary damages and imposes the amount of ₱50,000.00 from the ₱2,000.00 award by the RTC.

In *Malto v. People*,³⁷ the Court stressed that the purpose of R.A. No. 7610 is to afford children special protection against abuse, exploitation and discrimination. Consistent with the principles that every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same and that every person criminally liable for a felony is also civilly liable,³⁸ the Court finds that the award of civil indemnity to the child is proper in cases involving violation of Section 10(a) of R.A. No. 7610. As to the amount of civil indemnity to be imposed, Article 2206 of the Civil Code provides the minimum amount of ₱3,000.00

³⁵ *People v. XXX*, G.R. No. 235662, July 24, 2019.

³⁶ *Rollo*, p. 82.

³⁷ *Malto v. People*, 560 Phil. 119 (2007).

³⁸ REVISED PENAL CODE, Art. 100, provides:

Art. 100. Civil liability of a person guilty of a felony. — Every person criminally liable for a felony is also civilly liable.

It may be applied in this case pursuant to Article 10 of the Revised Penal Code which states that the Code shall be supplementary to special laws unless the latter should specially provide the contrary. (*Malto v. People*, id. at 143, citing *People v. Moreno*, 60 Phil. 674 [1934]).

without prescribing for a ceiling. In *People v. Jugueta*,³⁹ the Court declared that even if the minimum amount cannot be changed, the award of civil indemnity may be validly increased and modified depending on the circumstances surrounding a particular case. The Court finds that the award of civil indemnity in the amount of ₱50,000.00 is reasonable under the facts obtaining in this case.

Anent the award of moral damages, there is no hard-and-fast rule in the determination of the fair and equitable amount considering that each case is governed by its unique facts. Likewise, Article 2220 does not fix the amount of damages to be awarded and it is discretionary upon the Court, depending on the mental anguish and emotional torture suffered by the victim.⁴⁰ In line with prevailing jurisprudence and considering the emotional trauma the child victim has suffered, the Court deems it proper to increase the award of moral damages from ₱20,000.00 to ₱50,000.00.⁴¹

As to exemplary damages, the Court has awarded the same to set a public example and to serve as deterrent to elders who abuse and corrupt the youth.⁴² In this case, exemplary damages is awarded on account of the moral corruption and perversity of an employee of an educational institution, who is expected to be morally upright and to have the highest regards in the preservation and protection of the best interest of a child. Hence, the Court reinstates the award of exemplary damages and imposes the amount of ₱50,000.00 from the ₱2,000.00 award by the RTC.

In consonance with prevailing jurisprudence, the imposition of legal interest of 6% over the monetary awards from the date of finality of this decision until full payment thereof is upheld.

All told, the Court echoes the pronouncement in *Patulot v. People*,⁴³ viz.:

Time and again, the Court has stressed that R.A. No. 7610 is a measure geared towards the implementation of a national comprehensive program for the survival of the most vulnerable members of the population, the Filipino children, in keeping with the Constitutional mandate under Article XV, Section 3, paragraph 2, that “[t]he State shall defend the right of the children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.” This piece of legislation supplies the inadequacies of existing laws treating crimes committed against children, namely, the RPC and Presidential

³⁹ *People v. Jugueta*, 783 Phil. 806 (2016).

⁴⁰ *People v. Tulagan*, G.R. No. 227363, March 12, 2019.

⁴¹ *People v. XXX*, G.R. No. 229827, March 27, 2019 (Minute Resolution).

⁴² *People v. Ronquillo*, 818 Phil. 641, 654 (2017).

⁴³ G.R. No. 235071, January 7, 2019.



Decree No. 603 or The Child and Youth Welfare Code. As a statute that provides for a mechanism for strong deterrence against the commission of child abuse and exploitation, the law has stiffer penalties for their commission, and a means by which child traffickers could easily be prosecuted and penalized. Also, the definition of child abuse is expanded to encompass not only those specific acts of child abuse under existing laws but includes also “other acts of neglect, abuse, cruelty or exploitation and other conditions prejudicial to the child’s development.”

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED** and the Decision dated September 27, 2018 of the Court of Appeals in CA-G.R. CR No. 39723 is **AFFIRMED**. Petitioner Allan De Vera y Ante is hereby found **GUILTY** beyond reasonable doubt for violation of Section 10(a) of Republic Act No. 7610 and is penalized to suffer the indeterminate sentence of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

Likewise, petitioner Allan De Vera y Ante is ordered to pay the minor victim the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages plus interest at the rate of 6% per annum on all monetary awards reckoned from the finality of this Decision until full payment.


SO ORDERED.


EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice




HENRI JEAN PAUL B. INTING
Associate Justice

(On Official Leave)
RICARDO R. ROSARIO
Associate Justice

ATTESTATION

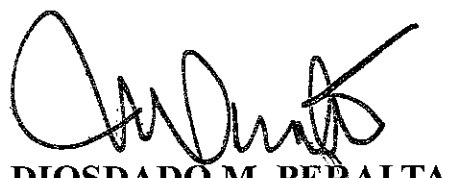
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third 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