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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 252226  
Plaintiff-Appellee,

Present:

PERLAS-BERNABE, S.A.J.,  
Chairperson,  
HERNANDO,  
INTING,  
GAERLAN, and  
DIMAAMPAO, JJ.

- versus -

ROMMEL DELA CRUZ y Promulgated:  
MENDOZA, Accused-Appellant. FEB 16 2022

X-----X

RESOLUTION

INTING, J.:

Before the Court is an appeal<sup>1</sup> seeking the reversal of the Decision<sup>2</sup> dated December 11, 2019 of the Court of Appeals (CA) in CA-G.R. CR HC No. 11874 which affirmed the Decision<sup>3</sup> dated August 7, 2018 of Branch 68, Regional Trial Court (RTC), [REDACTED], Pangasinan that found Rommel dela Cruz y Mendoza (accused-appellant) guilty of two (2) counts of Sexual Abuse under Section 5(b), Article III of Republic Act No. (RA) 7610 in Criminal Case Nos. L-10160 and L-10161.

*The Antecedents*

The case stemmed from two (2) Informations filed before the RTC, the accusatory portions of which state:

<sup>1</sup> See Notice of Appeal dated January 16, 2020, *rollo*, pp. 31-33.  
<sup>2</sup> *Id.* at 3-30; penned by Associate Justice Rafael Antonio M. Santos with Associate Justices Manuel M. Barrios and Walter S. Ong, concurring.  
<sup>3</sup> CA *rollo*, pp. 55-64; penned by Judge Maria Larni R. Parayno.

Criminal Case No. L-10160

“That sometime in the morning of February 10, 2012 in [REDACTED] Pangasinan, and within the jurisdiction of this Honorable Court, the above named accused, an adult taking advantage of the vulnerability of AAA, a 14 year old minor child (DOB-August 25, 1998), did, then and there willfully and unlawfully coerce and influence the said minor child to indulge into a sexual intercourse with him inside the bedroom of the residential house of his grandmother to the prejudice and damage of the said minor child.

Contrary to Sec. 5(b), Art. III of R.A. 7610 (Anti-Child Abuse Act).”<sup>4</sup>

Criminal Case No. L-10161

“That sometime in the morning of October 18, 2013 in [REDACTED] Pangasinan and within the jurisdiction of this Honorable Court, the above named accused, an adult taking advantage of the vulnerability of AAA, a 15 year old minor child (DOB-August 25, 1998), did, then and there willfully and unlawfully coerce and influence the said minor child to indulge into a sexual intercourse with him inside the bedroom of the residential house of his grandmother and damage of the said minor child.

Contrary to Sec. 5(b), Art. III of R.A. 7610 (Anti-Child Abuse Act).”<sup>5</sup>

When arraigned, accused-appellant pleaded not guilty to the charges. Pre-trial and trial ensued.<sup>6</sup>

*Version of the Prosecution*

The prosecution narrated that on February 10, 2012, AAA<sup>7</sup> was on

<sup>4</sup> *Id.* at 55-56.

<sup>5</sup> *Id.* at 56.

<sup>6</sup> *Rollo*, p. 5.

<sup>7</sup> The identity of the victim or any information to establish or compromise their identity, as well as those of their 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, Providing Penalties for its Violation 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. To note, no unmodified CA Decision was attached to the records to verify the real name of the victim.

her way to school when she saw accused-appellant, her textmate. Accused-appellant held her hand, hailed a tricycle, and brought her to the house of his grandmother in [REDACTED], Pangasinan. There, they watched a television show for 30 minutes. Thereafter, accused-appellant pulled AAA towards a room and started kissing her on the lips. He took off her uniform, pushed her towards the bed, went on top of her, and kissed her. Accused-appellant then removed his pants and inserted his penis into AAA's vagina for about 25 minutes. Accused-appellant succeeded in his lustful act. They left the house, boarded a tricycle, and headed to the town proper. Out of fear, AAA did not tell anyone about the incident.<sup>8</sup>

The second incident occurred on October 18, 2013 when AAA was in the public market. Accused-appellant saw her and called a tricycle. As in the previous incident, they proceeded to his grandmother's house in [REDACTED]. They were watching a television show when accused-appellant pulled her towards a room. Inside the room, he kissed her on the lips. Accused-appellant undressed her, went on top of her, and inserted his penis into her vagina. AAA tried to resist by slapping and pushing him away, but she failed. Later, accused-appellant called a tricycle, and they headed to the town proper.<sup>9</sup>

#### *Version of the Defense*

Accused-appellant admitted that he had sexual intercourse with AAA, but denied that he forced her. According to him, AAA was his girlfriend. They often went to the house of a friend or the house of his grandmother to watch television shows and listen to music.<sup>10</sup>

#### *The RTC Ruling*

In the Decision<sup>11</sup> dated August 7, 2018, the RTC found accused-appellant guilty beyond reasonable doubt of the charges. It ruled that: (1) accused-appellant induced and unduly influenced AAA to have sexual intercourse with him; (2) assuming they were sweethearts, their relationship will not exonerate him from the charges as AAA was just a minor during the incidents, while accused-appellant was already 20

<sup>8</sup> *Rollo*, p. 6.

<sup>9</sup> *Id.* at 6-7.

<sup>10</sup> *Id.* at 7-8.

<sup>11</sup> *CA rollo*, pp. 55-64.

years old; and (3) with his age, accused-appellant could easily force his will upon AAA.<sup>12</sup>

The *fallo* of the RTC decision reads:

WHEREFORE, in view of the foregoing, this court hereby renders judgment as follows:

1) In Criminal Case No. L-10160 (violation of Section 5(b), R.A. 7610) – accused ROMMEL dela CRUZ y Mendoza is found GUILTY beyond reasonable doubt of the crime of other sexual abuse under Section 5(b), R.A. 7610, and he is hereby sentenced to suffer the penalty of Twelve (12) Years, Five (5) Months and Eleven (11) Days of *prision mayor medium to reclusion temporal minimum*, as minimum, to Seventeen (17) Years and Four (4) Months of *reclusion temporal medium to reclusion perpetua*, as maximum. He is likewise ordered to pay private complainant AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. The amounts of damages awarded shall earn interest at the legal rate of 6% per annum from the date of finality of this judgment until fully paid. The accused is also ordered to pay a fine of ₱15,000.00; and

2) In Criminal Case No. L-10161 (violation of Section 5(b), R.A. 7610) – accused ROMMEL dela CRUZ y Mendoza is found GUILTY beyond reasonable doubt of the crime of other sexual abuse under Section 5(b), R.A. 7610, and he is hereby sentenced to suffer the penalty of Twelve (12) Years, Five (5) Months and Eleven (11) Days of *prision mayor medium to reclusion temporal minimum*, as minimum, to Seventeen (17) Years and Four (4) Months of *reclusion temporal medium to reclusion perpetua*, as maximum. He is likewise ordered to pay private complainant AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. The amounts of damages awarded shall earn interest at the legal rate of 6% per annum from the date of finality of this judgment until fully paid. The accused is also ordered to pay a fine of ₱15,000.00.

The accused, who is detained, is credited with the number of days he spent under detention, if he is qualified, otherwise, he shall be credited only with four fifths (4/5) of his preventive imprisonment, pursuant to Article 29 of the Revised Penal Code as amended.

SO ORDERED.<sup>13</sup>

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<sup>12</sup> *Id.* at 62.

<sup>13</sup> *Id.* at 64.

Aggrieved, accused-appellant appealed to the CA.

*Ruling of the CA*

In the assailed Decision,<sup>14</sup> the CA affirmed the conviction of accused-appellant and decreed as follows:

WHEREFORE, the appeal is hereby DENIED. The judgment of conviction of accused-appellant ROMMEL dela CRUZ y MENDOZA in the assailed *Decision* dated 07 August 2018 of the Regional Trial Court of [REDACTED], Pangasinan City, Branch 68 for both Criminal Case Nos. L-10160 and 10161 is hereby AFFIRMED *in toto*.

SO ORDERED.<sup>15</sup>

Insisting on his innocence, accused-appellant appeals his conviction before the Court.

In the Resolution<sup>16</sup> dated September 14, 2020, the Court noted the transmittal of the records forwarded by the CA. The Court also ordered the parties to file their respective supplemental briefs, should they so desire, within 30 days from notice.

In his Manifestation (In Lieu of Supplemental Brief)<sup>17</sup> dated November 25, 2020, accused-appellant adopted his Supplemental Brief filed before the CA as it adequately discussed all the matters pertinent to his defense. Meanwhile, in its Manifestation (In Lieu of Supplemental Brief)<sup>18</sup> dated December 21, 2020, the People, through the Office of the Solicitor General, prayed that it be excused from filing a supplemental brief as it had already extensively addressed all the matters and issues raised by accused-appellant in its brief filed before the CA.

*Issue*

In the main, the issue to be resolved is whether the CA erred in affirming accused-appellant's conviction.

<sup>14</sup> *Rollo*, pp. 3-30.

<sup>15</sup> *Id.* at 29-30.

<sup>16</sup> *Id.* at 39-40.

<sup>17</sup> *Id.* at 42-43.

<sup>18</sup> *Id.* at 47-49.

*The Court's Ruling*

The appeal has no merit.

The RTC and the CA were correct in their assessment of the testimonies of AAA and her mother. On the basis of AAA's testimony, the RTC and the CA uniformly found that accused-appellant had carnal knowledge of AAA against her will or without her consent.<sup>19</sup> The Court sees no reason to depart from the RTC's assessment of AAA's credibility.<sup>20</sup>

AAA's recollection of her ordeal clearly established that on two separate dates, accused-appellant forced her to board the tricycle going to the house of his grandmother.<sup>21</sup> Thereat, he pulled her towards a room and pushed her onto the bed after undressing her.<sup>22</sup> She resisted the sexual advances of accused-appellant by slapping him but to no avail.<sup>23</sup> Considering the RTC's "unique position to observe and weigh that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying,"<sup>24</sup> the Court "accords great respect and even confer[s] finality to the findings of the trial court as to matters which are factual in nature as well as its assessment of the credibility of witnesses."<sup>25</sup> In the absence of any evidence "that the trial court's factual findings were tainted with arbitrariness or that the trial court overlooked or misapplied relevant facts and circumstances, or inadequately calibrated the witnesses' credibility, the reviewing court is bound by its assessment."<sup>26</sup>

The RTC convicted accused-appellant of Sexual Abuse under Section 5(b), Article III of RA 7610 in both Criminal Case Nos. L-10160 and L-10161. The CA affirmed the ruling of the RTC. However, there is a need to fix the error in the nomenclature of accused-appellant's crime. Accused-appellant should be held criminally liable for two (2) counts of

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<sup>19</sup> *Id.* at 28-29.

<sup>20</sup> *Id.* at 22.

<sup>21</sup> *Id.* at 29.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *People v. XXX*, G.R. No. 244609, September 8, 2020, citing *People v. Traigo*, 734 Phil. 726, 729 (2014).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, citing *People v. Santuille*, 800 Phil. 284, 290 (2016).

Rape under paragraph 1(a), Article 266-A, in relation to Article 266-B, of the Revised Penal Code. The Court cannot sustain the RTC's pronouncement that the prosecution had established accused-appellant's criminal liability under Section 5(b), Article III of RA 7610, which 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;

Sexual Abuse under Section 5, Article III of RA 7610 has the following elements: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the 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.<sup>27</sup> Under the circumstances, AAA cannot be deemed to be a child "exploited in prostitution and other sexual abuse;"<sup>28</sup> hence, the second element is patently lacking in the case. Instead, the prosecution's evidence clearly established the elements under paragraph 1, Article 266-A of the RPC, as amended by RA 8353.<sup>29</sup> Thus:

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

<sup>27</sup> *Id.*, citing *People v. Jaime*, 836 Phil. 871, 879 (2018).

<sup>28</sup> *Id.*

<sup>29</sup> The Anti-Rape Law of 1997.

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.

The circumstance applicable in the case is paragraph 1(a). The fact of carnal knowledge was established through AAA's positive identification of accused-appellant as her abuser. She testified that accused-appellant undressed her, positioned himself on top of her, and inserted his penis into her vagina on two separate dates.<sup>30</sup> With the prosecution sufficiently establishing all the elements of Rape applicable in the case, accused-appellant's guilt was proved beyond reasonable doubt.

In *People v. Ejercito*,<sup>31</sup> the Court held that that the Anti-Rape Law or RA 8353, amending the RPC, should be uniformly applied in rape cases against minors. Accordingly, "penal laws are crafted by legislature to punish certain acts, and when two (2) penal laws may both theoretically apply to the same case, then the law which is more special in nature, regardless of the time of enactment, should prevail."<sup>32</sup>

In *People v. Tulagan*,<sup>33</sup> the Court further explained:

Assuming that the elements of both violations of Section 5(b) of R.A. No. 7610 and of Article 266-A, paragraph 1 (a) of the RPC are mistakenly alleged in the same Information — *e.g.*, carnal knowledge or sexual intercourse was due to "force or intimidation" with the added phrase of "due to coercion or influence," one of the elements of Section 5 (b) of R.A. No. 7610; or in many instances wrongfully designate the crime in the Information as violation of "Article 266-A, paragraph 1 (a) in relation to Section 5 (b) of R.A. No. 7610," although this may be a ground for quashal of the Information under Section 3 (f) of Rule 117 of the Rules of Court — and proven during the trial in a case where the victim who is 12 years old or under 18 did not consent to the sexual intercourse, the accused should still be prosecuted pursuant to the RPC, as amended by R.A. No. 8353, which is the more recent and special penal legislation that is not only consistent, but also strengthens the policies of R.A. No. 7610. Indeed, while R.A. No. 7610 is a special law

<sup>30</sup> *Rollo*, pp. 17-18, 20-21.

<sup>31</sup> 834 Phil. 837 (2018).

<sup>32</sup> *Id.* at 849.

<sup>33</sup> G.R. No. 227363, March 12, 2019.



specifically enacted to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination and other conditions prejudicial to their development. We hold that it is contrary to the legislative intent of the same law if the lesser penalty (*reclusion temporal medium to reclusion perpetua*) under Section 5(b) thereof would be imposed against the perpetrator of sexual intercourse with a child 12 years of age or below 18.

Article 266-A, paragraph 1(a) in relation to Article 266-B of the RPC, as amended by R.A. No. 8353, is not only the more recent law, but also deals more particularly with all rape cases, hence, its short title "*The Anti-Rape Law of 1997*." R.A. No. 8353 upholds the policies and principles of R.A. No. 7610, and provides a "stronger deterrence and special protection against child abuse," as it imposes a more severe penalty of *reclusion perpetua* under Article 266-B of the RPC, x x x<sup>34</sup>

All the same, in bidding for his acquittal, accused-appellant argued that he and AAA were sweethearts.

The Court is not convinced.

As an affirmative defense, the "sweetheart theory" is actually "an admission of carnal knowledge of the victim," and consequently, the Court "places on the accused the burden of proving the supposed relationship by substantial evidence."<sup>35</sup> Moreover, the defense cannot just present testimonial evidence in support of the theory. Independent proof like tokens, mementos, and photographs are required.<sup>36</sup> Unfortunately for accused-appellant, he presented no such evidence to substantiate his claim. Assuming that they have a relationship, accused-appellant cannot just force AAA to have sex against her will. Verily, "[a] man does not have the unbridled license to subject his beloved to his unreciprocated carnal desires."<sup>37</sup> Besides, "the filing of criminal charges are not acts of a woman savoring a consensual coitus but that of a maiden seeking retribution for the outrage committed against her."<sup>38</sup>

In the case, accused-appellant may properly be convicted of Rape without violating his due process rights and the right to be informed of

<sup>34</sup> *Id.*

<sup>35</sup> *People v. Tabalanza*, G.R. No. 250607 (Notice), May 12, 2021.

<sup>36</sup> *Id.*, citing *People v. Ocdol*, 741 Phil. 701, 712-713 (2014).

<sup>37</sup> *Id.*

<sup>38</sup> *People v. XXX*, G.R. No. 243988, August 27, 2020, citing *People v. Tacipit*, 312 Phil. 295, 303 (1995).

the nature and cause of the accusations against him. It is very clear from the allegations in the Informations that they constitute criminal charges for Rape under paragraph 1, Article 266-A, in relation to Article 266-B of the RPC, as amended by RA 8353. To be sure, the Informations satisfactorily mentioned and charged accused-appellant with carnal knowledge of AAA, a minor, by willfully and unlawfully coercing the latter to have sexual intercourse with him on February 10, 2012 and October 18, 2013.<sup>39</sup> These allegations are sufficiently clear to inform him of the acts he is being liable for and adequate to enable him to form a defense.

As both the recital in the Informations and the evidence presented by the prosecution provide for a case that can be prosecuted and penalized as Rape under paragraph 1, Article 266-A in relation to Article 266-B of the RPC, as amended by RA 8353, accused-appellant should be properly convicted and penalized therefor. The Court imposes the penalty of *reclusion perpetua* against accused-appellant in Criminal Case Nos. L-10160 and L-10161. He is also ordered to pay AAA the following for each count of Rape: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; (c) ₱75,000.00 as exemplary damages; and (d) legal interest rate of 6% *per annum* on all damages awarded from the date of finality of this Resolution until fully paid, pursuant to prevailing jurisprudence.<sup>40</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated December 11, 2019 of the Court of Appeals in CA-G.R. CR HC No. 11874 is **AFFIRMED** with **MODIFICATION** in that accused-appellant Rommel dela Cruz y Mendoza is found **GUILTY** of two (2) counts of Rape under paragraph 1(a), Article 266-A, in relation to Article 266-B, of the Revised Penal Code, as amended by Republic Act No. 8353. He is hereby sentenced to suffer the penalty of *reclusion perpetua* and is **ORDERED** to pay the victim, AAA, the following amounts: (1) ₱75,000.00 as civil indemnity; (2) ₱75,000.00 as moral damages; and (3) ₱75,000.00 as exemplary damages for each count. All amounts due shall earn legal interest at the rate of 6% *per annum* from the date of the finality of this Resolution until full payment.

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<sup>39</sup> *Rollo*, p. 5.

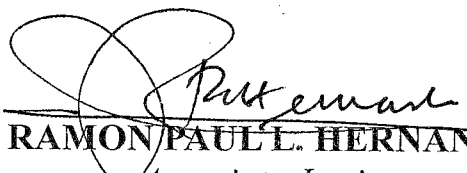
<sup>40</sup> *People v. XXX*, *supra* note 38. Citations omitted.


**SO ORDERED.**

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. BERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

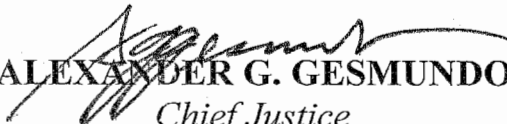
**ATTESTATION**

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

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

*AM*