

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. ANACLETO BULAWAN, SR. DEFENDANT AND APPELLANT.

Ponente: CONTRERAS, J.

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CONTRERAS, J.:

The Case

This case is brought before this Court pursuant to the provisions of Section 3(a), Rule 122 of the Rules on Criminal Procedure in the Rules of Court,[1] to appeal the Decision[2] of Branch 8 of the Regional Trial Court (hereafter RTC) in Davao City, in criminal case No. 44,750-00, finding Anacleto Bulawan, Sr. (hereafter Anacleto Sr.) guilty of violating Article VI, Section 10(a) of RA 7610 committed against Peejay Jimenez (hereafter Peejay), who was a minor at the time of the incident in question.

The Facts

On January 17, 2000, an Information was filed against Anacleto Sr., for violation of Article VI Section 10 paragraph (a) of RA 7610[3] (Law against Child Abuse) alleging:

“That on or about August 29, 1999, in the City of Davao, Philippines, and within the jurisdiction of this honorable Court, the above-mentioned accused (Anacleto Sr.) physically strong, willfully, unlawfully and feloniously committed cruelty upon the person of Peejay Jimenez, eleven (11) years old. The accused herein, in his fit of anger, [took] hold of the head of the minor and slammed it against the wall[;] as a consequence of accused’s cruelty, the offended party suffered physical injuries to his damage and prejudice.

Contrary to law.”[4]

Arraignment was held on September 19, 2000, where Anacleto Sr. entered a plea of not guilty.[5] Pre-trial and trial thereafter ensued.

There are different versions of the events that transpired on August 29, 1999, in the premises of Malabog Elementary School, Paquibato District, Davao City.

The version[6] of Peejay and the witnesses he presented is as follows:

At around 9 o’clock in the morning on August 29, 1999, Peejay was inside the premises of Malabog Elementary School, playing with other children, including his classmates Leopoldo Metado and Roilo Bangkas (hereafter Roilo). The son of their teacher, Victorina Anang (hereafter Ma’am Ana) also played with them.

They were throwing around “batong-batong,”[7] a kind of fruit which looks like string beans. The goal of the game is to find ways so that the player will not be hit when the “batong-batong” gets thrown at him, at the same time, attempt to hit the other players with his own fruit.

While they were playing, Anacleto Bulawan, Jr. (hereafter Anacleto Jr.) was 8-10 meters away from the group since he was not allowed to join. According to Roilo, Anacleto Jr. wanted to join them, but Peejay said he will not be allowed because if he will get hit, he will cry. Still, Anacleto Jr. insisted on joining.[8]

While Peejay was aiming at the son of Ma'am Ana, Peejay hit Anacleto Jr. when he threw his batong-batong. Anacleto Jr. then cried.

Anacleto Sr. approached the group from his carinderia. Anacleto Sr. asked what they did to his son. Leopoldo Metado said it was Peejay who hit Anacleto Jr. After Anacleto Sr. found out that it was Peejay who hit his son, he grabbed Peejay's head and banged it against the wall twice. Upon banging Peejay's head, Anacleto Sr. uttered the words "putang-ina kang bata-a ka, puede ta kang patyon (son of a bitch, I could kill you)."

After which, Anacleto Sr. left with his son.

Peejay said that his head ached and he felt dizzy. Roilo said Peejay just sat on a stone for a while massaging his head. Then Peejay went with his classmates to their teacher, Ma'am Ana for treatment. Ma'am Ana noticed that there was a lump on Peejay's head and she administered first aid treatment to him.

Peejay's mother then arrived, asking what happened to her son. She then took Peejay with her.

After the presentation of the prosecution's evidence, Anacleto filed a demurrer to evidence[9] on June 20, 2002. His counsel propounded that the prosecution utterly failed to meet the quantum of evidence necessary to convict the accused. The argument and discussion of the demurrer, however, pertain to allegations of exaggerations and insinuations of perjury on the witness, without presenting Anacleto's rebuttal of the evidence presented. These lapses were pointed out in the opposition[10] filed by the prosecutor.

In an Order dated June 20, 2002, the RTC denied the demurrer, setting the continuation of the trial.

On the part of Anacleto Sr., he posited that it was actually Peejay who committed childhood cruelty when he threw the batong-batong fruit and hit Anacleto Jr. Anacleto Sr. insisted that his intention in entering the campus was to investigate what caused his son to cry.[11] His version of events as they unfold that day is as follows:

When Anacleto Jr. was hit by the batong-batong fruit, he cried. Anacleto Sr. then went to the place where Peejay and his classmates were playing. He asked who hit Anacleto Jr., and when he learned that it was Peejay, Anacleto Sr. held Peejay's shoulder. Peejay got scared that he might be boxed or hit so he wanted to get out of the school campus. Peejay was able to untangle himself from the hold of Anacleto Sr., but he slipped and fell and hit his head on the wall of the school.[12]

On October 2, 2011, the RTC found Anacleto Sr. guilty for child abuse.

The relevant portion of the decision stated:

"This Court sees no reason to doubt the testimony of the private complainant which was corroborated by his witness, Roilo Bangkas. Both testified in a straightforward manner and were unshaken on cross-examination. Their narration that while playing[,] private complainant accidentally hit accused's son[,] and accused reacted by slamming private complainant's head on the wall has a ring of truth in it. Thus, immediately after accused hit the private complainant, the latter and his companion narrated their tale to their teacher Victoria Anang. This negates any ill motive on private complainant's part to indict the accused. Consequently, his testimony corroborated by his witness must be given credence. Finding accused Anacleto Bulawan GUILTY beyond reasonable doubt of violating Article VI Section 10 (a) of RA 7610, he is hereby sentenced to suffer the indeterminate penalty of imprisonment of from FIVE YEARS, FOUR MONTHS and TWENTY ONE DAYS of PRISION MAYOR as Minimum and SIX YEARS EIGHT MONTHS and ONE DAY of PRISION MAYOR as Maximum." [13]

Aggrieved by the decision, Anacleto Sr. filed this appeal.

The Issues

Whether the RTC erred in finding Bulawan, Sr. guilty of child abuse when the evidence presented by the prosecution is replete with improbabilities and inconsistencies; and

Whether the RTC erred in not taking into consideration that Bulawan, Sr. did not have any intention of hurting or inflicting injury, much less debasing the integrity of Peejay.

Our Ruling

The appeal is partly meritorious.

In light of recent jurisprudence, the factual milieu of this case, taking into account the circumstances which brought about the slamming of Peejay's head against the wall, brings it outside the ambit of child abuse. The children were engaged in child's play and Peejay unintentionally hit Anacleto Sr.'s son. Seeing that his then six (6)-year-old son was hurt, Anacleto Sr. approached the group of children. Upon learning that it was Peejay who hurt his son, in a fit of anger and in a spur-of-the-moment reaction, he slammed Peejay's head against the wall. This loss of self-control negated the element of intent as necessary to support a finding of child abuse.

The pertinent provision in RA 7610, Section 10(a) states as follows:

Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and other Conditions Prejudicial to the Child's Development.

(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.

XXX [14]

Likewise, as found in the same law, Section 3 (b) defines child abuse in this wise:

Section 3. (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 deed 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;
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. (emphasis supplied)

Thus, the pivotal issue that has to be resolved is whether Anacleto Sr. committed acts that debased, degraded, or demeaned the intrinsic worth of Peejay as a human being. This Court must determine if such act constitutes the maltreatment of a child, as defined in RA 7610 and in light of recent jurisprudence, and if it resulted to the "condition prejudicial to the child's development" as found in Section 10(a) RA 7610.

We find in the negative.

Though we affirm the findings of fact of the trial court, recent jurisprudence has clarified that "not every instance of the laying of hands on a child constitutes the crime of child abuse under Section 10 (a) of Republic Act No. 7610. Only when the laying of hands is shown beyond reasonable doubt to be intended by the accused to debase, degrade or demean the intrinsic worth and dignity of the child as a human being should it be punished as child abuse. Otherwise, it is punished under the Revised Penal Code." [15]

On the Findings of Fact by the RTC

Basic is the rule that findings of the lower court are usually accorded respect, even to the point of finality. It is an established principle in our jurisdiction that “the trial court’s findings are accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood, or misappreciated and which, if properly considered, would alter the results of the case.”[16]

It is settled in our case law that “the assessment by the trial court of the credibility of a witness is entitled to great weight. It is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.”[17] There is no showing of such arbitrariness or oversight in this case. The RTC came up with its decision after a full-blown trial, giving credence to the testimony of the two children as corroborated by their teacher, over the bare denial of Anacleto Sr.

It is settled in our jurisdiction that, “positive identification, where categorical and consistent, without showing of ill-motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial, which if not substantiated by clear and convincing proof, are negative and self-serving evidence undeserving of weight in law. Denial is intrinsically a weak defense which must be buttressed by strong evidence of non-culpability to merit credibility.”[18]

The fact that the testimonies have some inconsistencies even adds credence to its veracity. It has been consistently upheld that “although there may be inconsistencies in the testimonies of witnesses on minor details, they do not impair their credibility where there is consistency in relating the principal occurrence and positive identification of the assailant.”[19]

Thus, we affirm the factual findings of the RTC as to the act of Anacleto Sr. of slamming the head of Peejay against the concrete perimeter fence of the school. However, in light of the development in recent jurisprudence on child abuse, there is a need to modify his culpability.

On the Applicable Crime as Modified by Jurisprudence

In the recent case of *Bongalon vs. People of the Philippines*,[20] the Supreme Court had the occasion to rule that:

“Although we affirm the factual findings of fact by the RTC and the CA to the effect that the petitioner (Bongalon) struck Jayson at the back with his hand and slapped Jayson on the face, we disagree with their holding that his acts constituted child abuse within the purview of the above-quoted provisions. The records did not establish beyond reasonable doubt that his laying of hands on Jason had been intended to debase the “intrinsic worth and dignity” of Jayson as a human being, or that he had thereby intended to humiliate or embarrass Jayson. The records showed the laying of hands on Jayson to have been done at the spur of the moment and in anger, indicative of his being then overwhelmed by his fatherly concern for the personal safety of his own minor daughters who had just suffered harm at the hands of Jayson and Roldan. With the loss of his self-control, he lacked that specific intent to debase, degrade or demean the intrinsic worth and dignity of a child as a human being that was so essential in the crime of child abuse (emphasis supplied).”

The Supreme Court then considered that since the physical injury suffered by the victim in the *Bongalon* case required five to seven days of medical attention, *Bongalon* was made liable for slight physical injuries under Article 266 (1)[21] of the Revised Penal Code.

Applying the foregoing to this case, in like manner, the circumstances that caused Anacleto Sr. to slam Peejay’s head against the wall was also borne out of his parental concern. Anacleto Sr. saw his six-year-old son hurt from being hit by a batong-batong fruit, and his anger obfuscated his reason, making him hurt an eleven-year-old child. The records would indeed show that he acted in a fit of anger as testified by the prosecution’s witnesses. As to the

extent of the injury inflicted, the certification submitted by Dr. Salvador Michael Malbog indicated the probable healing time of Peejay's contusion at 7 days.

Therefore, with Anacleto Sr.'s actions being driven by his paternal instinct to protect his son from those he perceived to have intentionally hurt Anacleto Jr., he is entitled to the mitigating circumstance of passion and obfuscation. It is noted that "passion and obfuscation may lawfully arise from causes existing only in the honest belief of the accused"[22] and may thus be appreciated in this case since Anacleto Sr. acted in the honest belief that it was actually his son who was a victim of childhood cruelty.

On the Imposable Penalties for Slight Physical Injuries

The penalty to be imposed for slight physical injuries is *arresto menor*,[23] which spans from one (1) day to thirty (30) days. Considering that the Indeterminate Sentence law is inapplicable to cases where the penalty does not exceed one (1) year, a straight penalty may be imposed on Anacleto Sr. Taking into account the mitigating circumstance of passion and obfuscation, *arresto menor* is hereby prescribed in its minimum period, which is one to ten days. Consequently, Anacleto Sr. is hereby sentenced to suffer as straight penalty of ten (10) days of *arresto menor*.

As to the award of damages, "under paragraph (1) Article 2219 of the Civil code, moral damages may be recovered in a criminal offense resulting in physical injuries. Moral damages compensate for the mental anguish, serious anxiety, and moral shock suffered by the victim and his family as being a proximate result of the wrongful act. An award requires no proof of pecuniary loss. Pursuant to previous jurisprudence, an award of Five Thousand Pesos (PHP 5,000.00) moral damages is appropriate for less serious, as well as slight physical injuries." [24]

"In addition and in conformity with current policy, [the Court] also imposes on all the monetary awards for damages at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid." [25]

In sum, though we affirm the findings of fact of the RTC, in light of the recent development in the jurisprudence specifically dealing with child abuse, instead of Section 10 of RA 7610, we find Anacleto Sr. guilty of slight physical injuries under the Revised Penal Code.

WHEREFORE, premises considered, we SET ASIDE the Decision dated October 2, 2011, of Branch 8 of the Regional Trial Court in Davao City, in Criminal Case No. 44,750-00, finding Anacleto Bulawan, Sr. guilty of violating Article VI, Section 10(a) of RA 7610; and ENTER a new judgment finding him GUILTY beyond reasonable doubt of the crime of SLIGHT PHYSICAL INJURIES under paragraph 1, Article 266 of the Revised Penal Code; sentencing him to suffer the penalty of ten (10) days of *arresto menor*; and ordering him to pay Peejay Jimenez the amount of FIVE THOUSAND PESOS (P5,000.00) as moral damages with interest at the legal rate of six percent (6%) per annum from date of finality of this Decision until fully paid.

SO ORDERED.

Contreras and Santos, JJ., concur.

[1] Section 3 (a), Rule 122 of the Rules of Court provides that the appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction.

[2] Rollo, pages 117-122. Decision dated October 2, 2011.

[3] An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and

Discrimination, Providing Penalties for its Violation, and for other Purposes.

[4] Records, Page 1.

[5] Rollo, page 114.

[6] Condensed from the TSN dated February 19, 2001, March 5 and 19, 2001, and July 23, 2001 from the testimony made by Peejay Jimenez, Roilo Bangkas, and Victorina Anang.

[7] Batong is the vernacular word for string beans; “batong-batong” means pretend string beans.

[8] TSN page 18, hearing dated March 5, 2001.

[9] Rollo, pages 123-137.

[10] Rollo, pages 139-140.

[11] Rollo, page 101.

[12] Rollo, pages 102-105.

[13]

[14] RA 7610, Section 10.

[15] Bongalon vs. People of the Philippines, G.R. No.169533, March 20, 2013.

[16] People vs. Aspuria, G.R. Nos. 139240-43, November 12, 2002 as cited in People vs. Sorongon, G.R. No. 142416, February 11, 2003.

[17] Araneta vs. Santiago, G.R. No. 147205, June 27, 2008.

[18] People of the Philippines vs. Baltazar, G.R. No. 143126, July 31, 2003 as cited in the decision of the RTC Judge

[19] People vs. Bernabe, G.R. No.185726, October 16, 2009 as cited in People of the Philippines vs. Mamaruncas, G.R. No. 179497, January 25, 2012.

[20] G.R. No. 169533, March 20, 2013.

[21] Revised Penal Code, Article 266. Slight Physical Injuries and maltreatment—the crime of slight physical injuries shall be punished:

1. By arresto menor when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period. XXX

[22] Reyes, Criminal Law, The Revised Penal Code, Book One (15th Ed.), p. 286 as cited in Bongalon vs. People, supra note 20.

[23] Revised Penal Code, Article 27.

[24] Aradillos vs. Court of Appeals, 464 Phil 650 (2004) as cited in People vs. Villacorta, G.R. No. 186412, September 7, 2011.

[25] People vs. Rarugal, G.R. No. 188603, January 16, 2013, as cited in People vs. Ramos, G.R. No. 190340, July 24, 2013; c.f. Nacar vs. Gallery Frames G.R. No. 189871, August 13, 2013;

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