

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SIMPLICIO DELANTAR, APPELLANT.

G.R. No. 169143 [Formerly G.R. No. 138328]. February 02, 2007

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-169143/>

TINGA, J.:

The forfeiture of the right to live free in society is the due requital for peddling a child to sexual servitude.

We begin with the antecedents.

On 27 August 1996, an information for violation of Section 5, Article III of Republic Act (R.A.) No. 7610[1] was filed against appellant Simplicio Delantar y Redondo. Docketed as Criminal Case No. 96-9175[2] of the Regional Trial Court (RTC) of Pasay City, the information was amended on 3 September 1996.[3] The accusatory portion of the Amended Information reads:

That sometime and during the period from 1994 to August 1996, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, SIMPLICIO DELANTAR Y REDONDO, through coercion and influence, did then and there wilfully, unlawfully and feloniously promote, facilitate and induce [AAA],[4] a female child below 12 years of age, to indulge in sexual intercourse and lascivious conduct for money, profit and other consideration.

Contrary to [1]aw.[5]

On 4 September 1996, appellant, assisted by counsel de parte, entered a plea of not guilty and informed the court that he did not want a pre-trial.[6] An attempt to quash the information was made but the same proved futile.[7] Thereafter, trial proceeded in due course.

The prosecution presented the following as witnesses: (1) AAA,[8] the complainant; (2) Dr. Emmanuel Aranas[9] of the PNP Crime Laboratory; and (3) Carolina Buan[10] of the Philippine Long Distance Telephone Co. On 31 January 1997, the prosecution submitted its Formal Offer of Evidence.[11]

Trial thereafter continued with the defense presenting the following as witnesses: (1) Simplicio Delantar;[12] (2) Angelito Entruzo;[13] and (3) Eduardo Juarez, Jr.[14] On 20 August 1998, the defense rested its case.

On 25 February 1999, the RTC-Pasay City, Branch 109, rendered a Decision,[15] finding appellant guilty beyond reasonable doubt of two counts of violation of Section 5(a), paragraphs 1, 4 and 5 of Article III of R.A. No. 7610. The trial court arrived at the following principal findings and conclusions, thus:

From all the foregoing, the Court opines that the prosecution has proven the guilt of the accused Simplicio Delantar y Redondo beyond reasonable doubt when he delivered his daughter [AAA] to an Arab national by the name of Mr. Hammond from their house at 2165-A P. Burgos St., Pasay City sometime in 1994 selling her in prostitution to the said [A]rab who committed acts of lasciviousness on her person by kissing her on her lips, her breast, her private parts and even rubbing his penis against her private parts which is a clear violation of Section 5(a), paragraph 1, 4, and 5 [of] Article III of R.A. [No.] 7610 and hereby sentences him of Reclusion

Perpetua and to pay civil liability to the victim in the amount of P60,000.00.

Likewise, the Court finds accused guilty beyond reasonable doubt for violation of Section 5(a) paragraph 1, 4, and 5 of Article III of R.A. [No.] 7610 when the accused Simplicio Delantar pimped and delivered the complainant, an eleven (11) year old minor to Congressman Romeo Jalosjos of the First District of Zamboanga del Norte at the Ritz Tower in Makati where the said Congressman for eight (8) times committed acts of lasciviousness on her person when he kissed her on her lips, private organ and even raped her. That all these times, the accused brought his child from their residence at 2165-A P. Burgos St., Pasay City and [the Court] hereby sentences him to Reclusion Perpetua and to pay the victim civil liability in the amount of P60,000.00.

SO ORDERED.[16]

Appellant interposed an appeal with this Court. After submission of the parties' briefs, on 20 September 2004, this Court through the Second Division then transferred the appeal to the Court of Appeals for appropriate action and disposition.[17] On 31 May 2005, the Court of Appeals rendered a Decision[18] affirming with modification the trial court's Decision. The appellate court ruled in the dispositive portion, thus:

WHEREFORE, the appealed decision, finding appellant Simplicio Delantar guilty beyond reasonable doubt of Violation of Section 5(a), paragraph[s] 1, 4 and 5, Article III of R.A. No. 7610, for one count only, is AFFIRMED with the MODIFICATION that he is also sentenced to pay complainant [AAA] the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

Costs against appellant.

SO ORDERED.[19]

On 23 June 2005, appellant, through counsel, filed a Notice of Appeal from the Decision of the Court of Appeals to this Court.[20] On 21 July 2005, the Court of Appeals gave due course to the Notice of Appeal and elevated the records of the case to this Court for purposes of the appeal.[21]

In his Brief,[22] appellant assigns the following errors committed by the trial court:

I

THE TRIAL COURT ERRED IN CONVICTING [APPELLANT] OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN CONVICTING [APPELLANT] OF TWO (2) VIOLATIONS OF SECTION 5, ARTICLE III, R.A. [NO.] 7610 DESPITE THE FACT THAT ONLY A SINGLE INFORMATION WAS FILED BY THE 2[ND] ASSISTANT CITY PROSECUTOR OF PASAY CITY.

III

THE TRIAL COURT ERRED IN IMPOSING THE PENALTY FOR THE CRIME CHARGED IN ITS MAXIMUM PERIOD (RECLUSION PERPETUA) WHEN THERE IS NO SHOWING IN ITS DECISION [OF] THE ATTENDANCE OF A QUALIFYING CIRCUMSTANCE WHICH WOULD WARRANT THE IMPOSITION OF THE MAXIMUM PENALTY.[23]

Of the issues raised by appellant in his brief, we only have to resolve the first and the third issues since the Court of Appeals has already upheld the second contention which is that he should only be convicted of one violation[24] and also since a reversal of the ruling would constitute double jeopardy. In any event, we fully agree with the appellate court's adjudication.[25]

Appellant stands charged of violating Section 5, Article III of R.A. No. 7610, which provides:

ARTICLE III.

CHILD PROSTITUTION AND OTHER SEXUAL ABUSE

SEC. 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:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

- (1) Acting as a procurer of a child prostitute;
- (2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
- (3) Taking advantage of influence or relationship to procure a child as a prostitute;
- (4) Threatening or using violence towards a child to engage him as a prostitute; or
- (5) Giving monetary consideration, goods or other pecuniary benefit to a child with the intent to engage such child in prostitution.

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected 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; and

(c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.[26]

There is no doubt, drawing from the evidence, that AAA was a child who was exploited in prostitution as defined in Section 5, Article III quoted above. The law punishes not only the person who commits the acts of sexual intercourse or lascivious conduct with the child but also those who engage in or promote, facilitate or induce child prostitution. Appellant is one such person.

The testimony of AAA shows that appellant procured her as a child prostitute for at least two clients: the first, an Arab national named Mr. Hammond and the second, then Congressman Romeo Jalosjos.

AAA testified that she was brought to the first client at least eleven (11) times between the period 1994 to June 1996.[27] On each of these occasions, appellant and AAA would go to Ralph Anthony Suites in Manila where the client stayed. Appellant would tell AAA that they had to go to the client because they needed to pay some

obligations,[28] they had to settle something,[29] they had to pay the electric bill,[30] or they had to ask for money for AAA's tuition fees.[31] Upon their arrival at Ralph Anthony Suites, appellant would talk to the client for a few minutes and then leave AAA alone with the client. Money was usually given by the client to appellant who would leave on the pretext of buying something from Robinsons, a nearby mall. When he returned, usually after two (2) to four (4) hours, appellant would have something for AAA such as food and clothes.

Once left alone with AAA, the client would perform lascivious acts on AAA. With the sordid details spread all over the transcript of AAA's testimony as she gave it before the trial court, the recurrent salient points of her harrowing experience revolved around the client's kissing her, touching her breasts, embracing her, and inserting his finger in her private parts. [32]

On one occasion, the client even tried to insert his penis inside AAA's vagina but the latter pleaded for him not to. The client thereafter rubbed his penis on AAA's vagina. On the same occasion, the client made AAA sit on him near his groin while his penis was fully erect. The client then made pumping motions while his organ was touching AAA's vagina until "his penis got wet." [33]

After their first visit to the client, AAA told appellant that she did not want to go back because the client was "bastos." Appellant promised her that they would no longer go back but the promise was broken as they went back a few more times.[34] AAA continued to complain to appellant about the acts committed on her by the first client but appellant would dismiss the same saying that if the client's private part is not inserted in AAA's private part, there is nothing wrong about it,[35] or that since there was no penetration, there was nothing wrong about it.[36]

Sometime in June 1996, AAA told appellant that she did not want to go to the client anymore. On that day, AAA and appellant went to Harrison Plaza where appellant instructed AAA to call the client and tell the latter that if he would not give them P5000, they would not go there anymore. AAA complied and told the client exactly what appellant had told her. The client responded by saying that he would only give them P5,000.00 if AAA would have sexual intercourse with him. They did not go to this client anymore.[37]

Appellant thereafter started to bring AAA to the second client. As with the first client, appellant would tell AAA that they had to go to the second client because they had obligations to pay such as the telephone bill, electric bill, rent, and tuition fees.[38] During each of these visits, the

client would give AAA money ranging from P2,000.00 to P10,000.00.[39] The details of what transpired when AAA was left alone with the second client were vividly recounted in *People v. Jalosjos*,[40] where the second client was convicted of two (2) counts of rape and six (6) counts of acts of lasciviousness, all committed against AAA on various dates. In the case, the Court found that it was appellant who brought AAA to said client. The Court in that case even referred to appellant as the second client's "suking bugaw." [41]

From her testimony, it could easily be gleaned that AAA did not consent to the acts of lasciviousness and the sexual intercourse. After their initial visit to the first client, AAA pointedly told appellant that she did not want to go back because the client was "bastos" but appellant did not mind this and continued to bring AAA to the first client still.[42] AAA persisted in complaining but appellant would dismiss the remonstrance, saying that if the client's private parts are not inserted in AAA's private parts, there is nothing wrong about it,[43] or that since there was no penetration, there was nothing wrong about it.[44]

Appellant succeeded in infusing AAA with intense fear and awe of him. She was afraid that appellant might send her away if she did not obey him.[45] She was scared of him also because when he got angry, he would pull her and her brother's hair, whip them very hard, slap them, hit them on the upper arm with a hanger, box them on the

arms, bite them or even make them kneel on salt with outstretched hands.[46] Appellant even hit AAA with the telephone apparatus a number of times, the last time was on 15 August 1996, the day before she ran away to escape, and only because she had forgotten to call the second client.[47] It was this dread of appellant that pushed AAA to still go with him to the clients even if she did not want what was being done to her by whoever was the client once she was left alone with him.

Further, appellant instilled the feeling of guilt and helplessness in AAA by constantly saying that they had to pay some obligations,[48] they had to settle something,[49] they had to pay the electric bill,[50] or they had to ask for money for AAA's tuition fees.[51]

Verily, it was against AAA's will and consent to see the two clients. But even if AAA had in fact consented, appellant may still be prosecuted for child prostitution under Section 5, Article III of R.A. No. 7610 because the child's consent or lack of it is not an element of the offense.

As held by this Court in *People v. Larin*,[52] a child is deemed exploited in prostitution or subjected to other sexual abuse, when the child indulges in sexual intercourse or lascivious conduct (a) for money, profit, or any other consideration; or (b) under the coercion or influence of any adult, syndicate or group.[53] If AAA was not coerced into child prostitution under (b) above, she definitely was influenced by appellant to enter into said activity. As the person who had raised and taken care of AAA, appellant had moral ascendancy over AAA. This moral ascendancy coupled with AAA's fear and awe of appellant and her exposure to the world of prostitution at the early age of five had exerted a dominating influence on her being.

Further, AAA was doing it so that they could have money to meet their several needs, including her own tuition fees. This engendered in AAA sufficient "consideration" under (a) above to engage or agree to be exploited in prostitution because after every encounter with the clients, AAA would receive either money (ranging from P2,000.00 to P10,000.00) or food and clothing.

Aside from the testimony of AAA, the record is replete with evidence of appellant's liability beyond reasonable doubt. The testimony of Dr. Emmanuel L. Aranas, Medico Legal Officer of the PNP Crime Laboratory, who conducted a medical examination on AAA on 23 August 1996, as well as the Medico Legal Report[54] that he prepared showed that, at the time of physical examination, AAA was in a non-virgin state physically and that her hymen had a shallow healed laceration at 3 o'clock position and a deep healed laceration at 8 o'clock position. Dr. Aranas testified that the lacerations could be caused by the entry either of a finger or an erect male organ a week or more prior to the date of the examination.[55] This testimony proves that AAA was subjected either to lascivious conduct or sexual intercourse before the medical examination.

Witness Carolina Buan, for her part, testified that several calls were made from appellant's phone to the second client.[56] Exhibits I to I-15-A and J to J-20, as well as appellant's own admission that he was the subscriber of telephone number 831-2423[57] and that he is the "S. Delantar" indicated in the telephone bill,[58] establish a connection between appellant and the second client. This connection in turn forged the regularity which characterized the communication between the two, indeed the situation that normally obtains between a regular client and a "suking bugaw."

Appellant, in his brief, does not deny that he brought AAA to the clients.[59] He, however, attempts to exculpate himself by stating that he did not coerce or influence AAA to go to the two clients to be exploited in prostitution.[60]

Appellant further claims that there is no showing that he made promises to AAA either by assuring her that he would give her money or anything to convince her to go with him to the clients. He even seeks to discredit AAA

for not attempting to object to be brought to the first client despite her previous experience in several encounters with him. This absence of any objection on the part of AAA, so appellant insists, is proof that she was brought to the client of her own free will, and at the same time militates against any finding that appellant had coerced or influenced AAA to go to the client.[61] Also, according to appellant, AAA herself admitted she had already known, by their second visit, that she was being pimped to the first client.[62] Appellant likewise dismisses AAA's fear that he would send her away should she refuse to go to the clients as a mere conclusion or presumption from AAA's end because at no time did appellant actually tell her to go away.[63] In the same vein, AAA's fear that appellant would get angry if she refused to go with him to the clients is merely imaginary or conjectural.[64] Appellant even cites excerpts from AAA's testimony to the effect that he only laid hands on AAA only for the purpose of disciplining her.[65]

Appellant's testimony itself contains an admission that he had indeed brought AAA to the two clients. He admitted that even in his presence, questions about AAA's pretty legs and breast size were propounded.[66] Certainly, he cannot deny knowledge that the persons who propounded the questions had lewd designs on AAA. These are questions laced with lecherousness and drenched in perversity especially when asked of a child. Worse, after such questions were propounded, appellant left AAA alone with the clients who in the first place had inquired about AAA's legs and breasts. Appellant even admitted that in one instance the person who shot the questions to him even placed his hands on the breasts of AAA.[67]

Appellant claims that he was promoting AAA's prospective career as an actress. Appellant's clear intention to pimp or promote AAA as a child prostitute to the second client cannot be concealed in the guise of a move to help AAA to realize her ambition to become an actress. AAA's acting skills may not be measured or determined by a picture of her in a bikini.[68] There is no profound connection between acting skills and nudity.

Appellant's recourse to the testimony of the other two witnesses is likewise vain and futile. Angelito Entruzo testified that after appellant had adopted AAA, he took good care of her by providing for her needs such as food, clothing, shelter and education.[69] This testimony, while making appellant look benevolent, has actually worked to his detriment because it further shows his dark side as a person on whom a child had depended but who abused the situation of dependency. Ed Juarez, Jr., on the other hand, merely testified that appellant had brought AAA to him to make her an actress. The claim does not rule out the finding that appellant had engaged in child prostitution.

We reject appellant's avowals of innocence. We affirm the verdict of guilt.

Doubtlessly, appellant had repeatedly pandered AAA to two clients for sexual gratification. He procured paying customers for her sexual services. The acts done on AAA by the two clients ranged from "lascivious conduct" defined under the Implementing Rules and Regulation of R.A. No. 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," and statutory rape, under Art. 335, paragraph 3 of the Revised Penal Code, as amended by R.A. No. 7659.

Appellant's violation of Sec. 5, Art. III of R.A. No. 7610 is as clear as day. The provision penalizes anyone who engages in or promotes, facilitates or induces child prostitution either by: (1) acting as a procurer of a child prostitute; or (2) inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means; or (3) by taking advantage of influence or relationship to procure a child as a prostitute; or (4) threatening or using violence towards a child to engage him as a prostitute; or (5) giving monetary

consideration, goods or other pecuniary benefits to the child with the intent to engage such child in prostitution.

The purpose of the law is to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development.[70] A child exploited in prostitution may seem to "consent" to what is being done to her or him and may appear not to complain. However, we have held that a child who is "a person below eighteen years of age or those unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of their age or mental disability or condition" is incapable of giving rational consent[71] to any lascivious act or sexual intercourse. In fact, the absence of free consent is conclusively presumed when the woman is below the age of twelve.[72]

Appellant, whom AAA had looked up to as her father, had the duty to care for and bring her up. Far from looking after her moral character, mental state and physical well-being, he had actually facilitated her debasement by introducing her to clients and inducing her to engage in prostitution. Abusing the moral ascendancy he had over her, he exposed her to prostitution at a very tender age, made her feel it was her obligation to earn money for their family, in a detestable manner at that, and callously impressed upon her that there was nothing wrong with what the clients had been doing to her. At day's end, he raked in the money that his corruption of the child had brought in.

The penalty prescribed by Section 5 of R.A. No. 7610 is reclusion temporal in its medium period to reclusion perpetua. However, it was not proven that appellant is the parent or guardian of AAA.

The establishment of either relationship would have justified the imposition of the penalty provided in the law in its maximum. Thus, there being neither mitigating nor aggravating circumstance, the penalty which could properly be imposed is reclusion temporal in its maximum period, the medium of the penalty prescribed by the law. After applying the Indeterminate Sentence Law, the proper imposable penalty is an indeterminate sentence the maximum term of which shall be that which could properly be imposed (reclusion temporal in its maximum period), and the minimum of which shall not be less than the minimum term prescribed by the law (reclusion temporal in its medium period).[73]

Section 31(c), Article XII of R.A. No. 7610 states:

x x x x

(c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked. (Emphasis supplied.)

Under R.A. No. 7610, Sec. 31(c), relationship is not a qualifying circumstance but only an ordinary generic aggravating circumstance. Thus, although it was not alleged in the information it can nevertheless be taken into account in fixing the penalty for the crime because it was proven.[74] A generic aggravating circumstance provides for the imposition of the prescribed penalty in its maximum period, while a qualifying circumstance changes the nature of the crime.[75]

In the case at bar, the only evidence presented to establish AAA's alleged relationship to appellant is her birth certificate[76] which mentions appellant as the father. However, said document does not bear appellant's signature. In fact, appellant, in his testimony, denied that he is AAA's father.[77] He claimed that, sometime in 1983, AAA was brought to him by a certain Salvacion Buena, AAA's real mother, who could not support her.[78] Salvacion Buena told appellant that AAA was born on 11 May 1983 and that her natural father was a Japanese

national.[79] As prepared, the birth certificate indicates that AAA was born on "11 May 1985" to "Librada A. Telin" (mother) and "Simplicio R. Delantar" (father) who were married on "14 February 1977" in "Manila." The legible signature which reads "Librada T. Delantar" appears below the printed item "INFORMANT" and above the typewritten name "Librada T. Delantar" and word "Mother." However, nowhere on the face of the birth certificate can the signature of appellant be found. According to appellant, Librada A. Telin is his sister and they did not get married to each other on the date indicated in the birth certificate, or impliedly at least, not ever.

While under the Family Code, filiation can be established by, among others, the record of birth appearing in the civil register,[80] yet the rule is where the birth certificate presented was not signed by the father against whom filiation is asserted, such may not be accepted as evidence of the alleged filiation. In *Angeles v. Maglaya*,[81] we held:

x x x Such certificate, albeit considered a public record of a private document is, under Section 23, Rule 132 of the Rules of Court, evidence only of the fact which gave rise to its execution: the fact of birth of a child. Jurisprudence teaches that a birth certificate, to be considered as validating proof of paternity and as an instrument of recognition, must be signed by the father and mother jointly, or by the mother alone if the father refuses. x x x[82]

In *Angeles v. Maglaya*, we refused to give evidentiary weight to the birth certificate as proof of filiation in a case for settlement of estate to support a claim of legitimacy because the same was unsigned by the alleged father. With more reason we should not accord value to the birth certificate in this case considering that its effect would be to increase the penalty to be imposed on the appellant. This is a criminal case wherein an interpretation unfavorable to the accused is generally unacceptable.

The Solicitor General cites this Court's pronouncement in *Heirs of Cabais v. Court of Appeals*,[83] that "[a] birth certificate, being a public document, offers prima facie evidence of filiation and a high degree of proof is needed to overthrow the presumption of truth contained in such public document." [84] The pronouncement is not applicable to this case. It was made merely as an elucidation of the limited evidentiary value of a baptismal certificate in this jurisdiction vis-à-vis a birth certificate. In that case, presented was the baptismal certificate of the person whose filiation was sought to be established. The birth certificate itself was not presented. In the case at bar, the birth certificate of AAA was presented.

We thus hold that the birth certificate of AAA is prima facie evidence only of the fact of her birth and not of her relation to appellant. After all, it is undisputed that appellant is not AAA's biological father.

At best, appellant is AAA's de facto guardian. Now, would this circumstance justify the imposition of the higher penalty on him? We think not. We apply, by analogy, the ruling of this Court in *People v. Garcia*,[85] where we held that the restrictive concept of guardian, legal or judicial, is required by Sec. 11 of R.A. No. 7659. Said provision, by way of amending Art. 335 of the Revised Penal Code, ordains that where the victim of the crime of rape is under eighteen years of age and the offender is, inter alia, a guardian of the victim, the death penalty shall be imposed. We ruled:

The law requires a legal or judicial guardian since it is the consanguineous relation or the solemnity of judicial appointment which impresses upon the guardian the lofty purpose of his office and normally deters him from violating its objectives. Such considerations do not obtain in appellant's case or, for that matter, any person similarly circumstanced as a mere custodian of a ward or another's property. The fiduciary powers granted to a real guardian warrant the exacting sanctions should he betray the trust.[86]

Further, according to the maxim *noscitur a sociis*, the correct construction of a word or phrase susceptible of various meanings may be made clear and specific by considering the company of words in which it is found or

with which it is associated.[87] Section 31(c) of R.A. No. 7610 contains a listing of the circumstances of relationship between the perpetrator and the victim which will justify the imposition of the maximum penalty, namely when the perpetrator is an "ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity." It should be noted that the words with which "guardian" is associated in the provision all denote a legal relationship. From this description we may safely deduce that the guardian envisioned by law is a person who has a legal relationship with a ward. This relationship may be established either by being the ward's biological parent (natural guardian) or by adoption (legal guardian). Appellant is neither AAA's biological parent nor is he AAA's adoptive father. Clearly, appellant is not the "guardian" contemplated by law.

On the award of indemnity and damages, we delete the Court of Appeals' award of civil indemnity because appellant was not the one who committed the lascivious acts and perpetrated the rape of AAA. Instead, we impose a fine which shall be administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of AAA, pursuant to Section 31 (f), Article XII, R.A. No. 7610. Likewise, the award of exemplary damages is improper considering that appellant is not AAA's biological father.

WHEREFORE, premises considered, the 31 May 2005 Decision of the Court of Appeals in CA-G.R. CR H.C. No. 00977 is hereby AFFIRMED WITH MODIFICATION. Appellant SIMPLICIO DELANTAR y REDONDO is found guilty of one count of violation of Section 5(a), R.A. No. 7610. He is sentenced to suffer the indeterminate sentence of fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, as maximum, and to pay a fine in the sum of P20,000.00 to be administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of AAA,[88] and P50,000.00 as moral damages.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES" and approved on 17 June 1992.

[2] The case was originally raffled to Branch 231 but was re-raffled because said court was not a designated Juvenile Domestic Relations Court. Criminal Case No. 96-9175 was eventually re-raffled to Branch 119. However, a heated argument ensued in the hearing of 17 September 1996, prompting Judge Salvador P. de Guzman of Branch 119 to inhibit himself and refer the case for re-affle (Records, Vol. I, pp. 140-141). The case was again re-raffled to Branch 108 but it was again referred for re-affle because the Presiding Judge of Branch 108 was the "compadre" of appellant's counsel (Records, Vol. I, p. 184). The case was eventually re-assigned to Branch 109.

[3] The original information alleged that the crime was committed during the period "from 1994 to June, 1996" and that the victim was exploited to "indulge in lascivious conduct" while the amended information alleged that the crime was committed during the period "from 1994 to August, 1996" and that the victim was induced to "indulge in sexual intercourse and lascivious conduct."

[4] See Republic Act No. 9262, Sec. 44, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, which requires the Court not to disclose the identity of the victim by using fictitious initials to ensure confidentiality.

[5] CA rollo, p. 30.

[6]Records, Vol. I, p. 46.

[7] On 26 February 1997, counsel for appellant filed a Motion to Quash (Records, Vol. II, pp. 257-262) the information filed in Criminal Case No. 96-9175 on the ground that since venue was improperly laid, the RTC did not have jurisdiction to try the instant case. Counsel for the prosecution filed its Opposition to the Motion to Quash (Records, Vol. II, pp. 263-269). In an Order dated 17 June 1997, the RTC denied the Motion to Quash for lack of merit (Records, Vol. II, pp. 301-305). Counsel for appellant went to the Court of Appeals via a Petition for Certiorari under Rule 65 of the Rules of Court questioning the RTC's denial of its Motion to Quash (Records, Vol. II, pp. 312-320). The petition was docketed as CA-G.R. SP No. 44559. On 12 March 1998, the Second Division of the Court of Appeals rendered a decision denying the petition (Records, Vol. III, pp. 2-8).

[8] She testified at the hearings conducted on 11, 12, 13, and 17 September 1996, 16 and 18 October 1996, 5, 11, 18, and 20 November 1996; and 7 and 9 January 1997.

[9] He testified at the hearings conducted on 15 and 20 January 1997.

[10] She testified at the hearing conducted on 27 January 1997.

[11] Records, Vol. II, pp. 126-141. The Court ruled on the Formal Offer of Evidence on 21 February 1997 (Records, Vol. II, pp. 255-256). A Former Offer of Additional Evidence was made by the prosecution without any opposition filed by counsel for appellant, prompting the RTC to admit the same (Records, Vol. III, p. 146).

[12] He testified at the hearings conducted on 20, 24 and 30 July 1998, and 4 August 1998.

[13] He testified at the hearing conducted on 4 August 1998.

[14] He testified at the hearing conducted on 11 August 1998.

[15] CA rollo, pp. 56-80.

[16]Id. at 80.

[17]Conformably with this Court's decision promulgated on 7 July 2004 in G.R. Nos. 147678-87, entitled "The People of the Philippines v. Efren Mateo y Garcia." Id. at 232.

[18] Rollo, pp. 3-17; CA rollo, pp. 234-247; Penned by Justice Mariano C. Del Castillo, concurred in by Justices Salvador J. Valdez, Jr. and Eliezer R. de los Santos.

[19] Id. at 16; id. at 246.

[20] CA rollo, pp. 265-266.

[21] Id. at 279.

[22] Id. at 119-149.

[23] Id. at 119-120.

[24] Id. at 234-247.

[25] The purpose of the rule against duplicity of offense, embodied in Sec. 13, Rule 110 of the Rules of Court, is to give the defendant the necessary knowledge of the charge so that he may not be confused in his defense. (F. REGALADO, REMEDIAL LAW COMPENDIUM, Volume II (8[th] ed., 2000), citing *People v. Ferrer*, 101 Phil. 234, 270) Since the amended information in this case charged appellant with only one violation of Section 5 of R.A. No. 7610, even if the testimony of AAA points to nineteen (19) incidents committed by two clients,

appellant could only be held liable for one violation. This is consistent with appellant's constitutional right to be informed of the accusation against him which right may not be waived for reasons of public policy. (*People v. Ranido*, 351 Phil. 610 [1998]).

[26] RULES OF COURT, Rule 133, Sec. 2.

[27]TSN, 11 September 1996, p. 25; 13 September 1996, p. 15.

[28] TSN, 12 September 1996, p. 9.

[29] *Id.* at 15.

[30] *Id.* at 16.

[31]TSN, 13 September 1996, p. 5.

[32] TSN, 12 and 13 September 1996.

[33] TSN, 13 September 1996, pp. 15-17.

[34] TSN, 11 September 1996, p. 25.

[35] TSN, 12 September 1996, p. 14.

[36] TSN, 13 September 1996, p. 18.

[37]*Id.* at 18-21.

[38] TSN, 9 January 1997, p. 9.

[39] TSN, 16 October 1996, pp. 18, 20, 35, 45, 51, 54, 58.

[40] 421 Phil. 43 (2001).

[41] *Id.* at 83.

[42] TSN, 11 September 1996, p. 25.

[43] TSN, 12 September 1996, p. 14.

[44] TSN, 13 September 1996, p. 18.

[45] TSN, 11 November 1996, p. 12.

[46] TSN, 16 October 1996, p. 71; 25 October 1996, p. 3; 7 January 1997, p. 9.

[47] TSN, 9 January 1997, pp. 3-6.

[48] TSN, 12 September 1996, p. 9.

[49] TSN, 12 September 1996, p. 15.

[50]TSN, 12 September 1996, p. 16.

[51] TSN, 13 September 1996, p. 5. See also TSN, 9 January 1997, p. 9.

[52] 357 Phil. 987 (1998).

[53] *Id.* at 998.

- [54] Records, Vol. II, p. 151; Exhibit "G."
- [55] TSN, 15 January 1997, p. 18.
- [56] TSN, 27 January 1997. See also Exhibits I and J, Record, Vol. II, pp. 153-172.
- [57] TSN, 24 July 1998, p. 16.
- [58] TSN, 4 July 1998, p. 18.
- [59] Rollo, pp. 117-149.
- [60] Id. at 136-137, citing TSN, 25 October 1991, p. 3.
- [61] Id. at 137-138. See also rollo, p. 141.
- [62] Id. at 138-139, citing TSN, 25 October 1996, p. 10.
- [63] Id. at 139.
- [64] Id. at 140-141.
- [65] Id. at 136-137, citing TSN, 25 October 1991, p. 3. See also rollo, p. 141.
- [66] TSN, 24 July 1998, p. 22; 30 July 1998, p. 3.
- [67] TSN, 24 July 1998, p. 22.
- [68] Records, Vol. IV, p. 212; Exhibit 67.
- [69] TSN, 11 August 1998.
- [70] Republic Act No. 7610, Sec. 2.
- [71] People v. Manlapaz, No. L-41819, 28 February 1979, 88 SCRA 704.
- [72] People v. Castillo, 390 Phil. 398 (2000).
- [73] REVISED PENAL CODE, Art. 64 in relation to the Indeterminate Sentence Law, Sec. 1 of which provides in part: ". . . if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same."
- [74] People v. Jimenez, G.R. Nos. 137790-91, 16 April 2001, 356 SCRA 508.
- [75] Id. at 521 citing People v. Mendoza, G.R. No. 133382, March 9, 2000, 327 SCRA 695; People v. Ramos, 296 SCRA 559 (1998).
- [76] Records, Vol. II, p. 143, Exhibit "A."
- [77] TSN, 20 July 1998, p. 2; 4 August 1998, p. 2.
- [78] TSN, 20 July 1998, pp. 2, 11, 12; 24 July 1998, p. 2; 4 August 1998, p. 3.
- [79] TSN, 20 July 1998, pp. 3, 12; 24 July 1998, p. 3.
- [80] FAMILY CODE, Arts. 172 and 175.
- [81] G.R. No. 153798, 2 September 2005, 469 SCRA 363.

[82] Id. at 374 citing RULES OF COURT, Rule 132, Sec. 23 and *Reyes v. Court of Appeals*, 135 SCRA 439 [1985]. Rule 132, Sec. 23 states that: "Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter."

[83] 374 Phil. 681 (1999).

[84] Id. at 688.

[85] 346 Phil. 475 (1997).

[86] Id. at 503.

[87] R. AGPALO, RUBEN E., *STATUTORY CONSTRUCTION* (2nd ed., 1990), p. 148, citing *Co Kim Chan v. Valdez Tan Keh*, 75 Phil. 371 (1945); *Caltex (Phil.), Inc. v. Palomar*, G.R. No. 19650, 29 September 1966, 30 SCRA 247 (1966); *Aisporma v. Court of Appeals*, G.R. No. 39419, 12 April 1982, 113 SCRA 459 (1982); *Soriano v. Sandiganbayan*, G.R. No. 65952, 31 July 1984.

[88] REPUBLIC ACT NO. 7610, Art. XII, Sec. 31(f).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.