

GONZALO A. ARANETA PETITIONER, V.S. PEOPLE OF THE PHILIPPINES RESPONDENT.

G.R. No. 174205. June 27, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the Decision[1] of the Court of Appeals dated 15 February 2005, which affirmed the Decision[2] of the Regional Trial Court (RTC) of Dumaguete City, Branch 41, finding petitioner Gonzalo Araneta y Alabastro guilty of violating Section 10(a), Article VI of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act," as amended.

On 12 October 1999, petitioner was charged before the RTC with violation of Section 10(a), Article VI of Republic Act No. 7610, allegedly committed as follows:

That on April 10, 1998, at about 11:00 o'clock in the morning, at Barangay Poblacion, District III, Dauin, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the said Gonzalo Araneta y Alabastro, with intent to abuse, harass and degrade 17-year-old offended party AAA [3], and gratify the sexual desire of said accused, the latter, did, then and there willfully, unlawfully and feloniously, by means of force and intimidation, hold and embrace said AAA, after trespassing with violence into the room of the dwelling occupied by said offended party, all against the latter's will and consent.[4]

When arraigned on 15 November 1999, petitioner pleaded not guilty. Thereafter, trial ensued.

At the trial, the prosecution presented the following witnesses: (1) the victim herself, AAA, who testified on matters that occurred prior, during and after her abuse; (2) BBB, AAA's 12-year-old sister, whose testimony corroborated that of the victim; (3) CCC, AAA's mother who testified on the fact that the victim was a minor during the alleged commission of the crime.

As culled from the combined testimonies of the prosecution witnesses, the prosecution was able to establish that at the time of the commission of the crime, AAA was 17 years old, having been born on 28 March 1981, in Batohon Daco, Dauin, Negros Oriental.[5] Because she was then studying at Dauin Municipal High School located at Poblacion, District III, Dauin, AAA left her birthplace to live near her school. She stayed at the house of a certain DDD as a boarder.

At around 10:00 o'clock in the morning of 10 April 1998, while AAA and her two younger sisters, BBB and EEE were sitting on a bench at the waiting shed located near her boarding house, petitioner approached her. Petitioner, who had been incessantly courting AAA from the time she was still 13 years old, again expressed his feelings for her and asked her to accept his love and even insisted that she must accept him because he had a job.[6] She did not like what she heard from petitioner and tried to hit him with a broom but the latter was able to dodge the strike.[7] She and her two sisters dashed to the boarding house which was five meters away and went inside the room. When they were about to close the door, the petitioner, who was following them, forced himself inside. The

three tried to bar petitioner from entering the room by pushing the door to his direction. Their efforts, however, proved futile as petitioner was able to enter.[8] There petitioner embraced AAA, who struggled to extricate herself from his hold. AAA then shouted for help. Meanwhile, petitioner continued hugging her and tried to threaten her with these words: "Ug dili ko nimo sugton, patyon tike. Akong ipakita nimo unsa ko ka buang"[9] (If you will not accept my love I will kill you. I will show you how bad I can be). BBB, tried to pull petitioner away from her sister AAA, but to no avail.[10] Andrew Tabilag, who was also residing in the same house, arrived and pulled petitioner away from AAA. [11] AAA closed the door of the room and there she cried. She then went to the police station to report the incident. [12]

The petitioner, on the other hand, denied the charge. He alone took the stand. Petitioner narrated that he met AAA and her younger sisters at the waiting shed, but he denied having embraced or kissed the victim.[13] He said he only spoke to her and told her that he loved her. Although he admitted that he followed AAA and her sisters when they went to the boarding house, it was because AAA beckoned him to follow her.[14] When he was inside the room, he again told her of his feelings but he was merely told by her to wait until she finished her studies.[15] He further said that he had been courting and visiting AAA since she was 12 or 13 years old.[16]

On 27 February 2001, the RTC rendered a decision totally disregarding petitioner's bare denials and flimsy assertions. In convicting petitioner of the crime charged, it held that petitioner's act of forcibly embracing the victim against her will wrought injury on the latter's honor and constituted child abuse as defined under Section 10(a), Article VI of Republic Act No. 7610. It further ruminated that if the mentioned statute considers as child abuse a man's mere keeping or having in his company a minor, twelve years or under or ten years or more his junior, in any public place, all the more would the unwanted embrace of a minor fall under the purview of child abuse.

The decretal portion of the RTC decision reads:

WHEREFORE, the Court finds accused Gonzalo Araneta y Alabastro guilty beyond reasonable doubt of Violation of Section 10(a) of Republic Act No. 7610 and hereby sentences him to suffer the penalty of prision mayor in its minimum period, to pay the offended party Php50,000.00 as moral damages without subsidiary imprisonment in case of insolvency, and to pay the costs. [17]

Dissatisfied with the ruling of the RTC, petitioner elevated the case to the Court of Appeals. Petitioner claimed that the RTC gravely erred in convicting him of child abuse despite failure of the prosecution to establish the elements necessary to constitute the crime charged. Section 10(a) provide: "Any person who shall commit any other acts of abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 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 "; and Section 3(b)(2) defines child abuse in this manner: "Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being." From these provisions, petitioner concludes that an act or word can only be punishable if such be prejudicial to the child's development so as to debase, degrade or demean the intrinsic worth and dignity of a child as a human being. In other words, petitioner was of the opinion that an accused can only be successfully convicted of child abuse under Section 10(a) if it is proved that the victim's development had been prejudiced. Thus, according to petitioner, absent proof of such prejudice, which is an essential element in the crime charged, petitioner cannot be found guilty of child abuse under the subject provision.

The Office of the Solicitor General (OSG), on the other hand, believes that the questioned acts of petitioner fall within the definition of child abuse. According to the OSG, when paragraph (a) of Section 10 of Republic Act No. 7610 states: "Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible

for other condition prejudicial to the child's development x x x," it contemplates two classes of "other acts" of child abuse, i.e., (1) other acts of child abuse, cruelty, and exploitation; and (2) other conditions prejudicial to the child's development. It argues that unlike the second kind of child abuse, the first class does not require that the act be prejudicial to the child's development.

In a decision dated 15 February 2005, the Court of Appeals concurred in the opinion of the OSG. It affirmed in toto the decision of the RTC, viz:

WHEREFORE, the instant appeal is DENIED and accordingly, the assailed Decision is AFFIRMED in toto.[18]

Petitioner filed a motion for reconsideration dated 14 March 2005, which was denied by the Court of Appeals in its 10 August 2006 Resolution.

Hence, the instant petition.

The petition is devoid of merit.

Republic Act 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 "The 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." [19] This piece of legislation supplies the inadequacies of existing laws treating crimes committed against children, namely, the Revised Penal Code and Presidential Decree No. 603 or the Child and Youth Welfare Code. [20] 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. [21] 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."

Article VI of the statute enumerates the "other acts of abuse." Paragraph (a) of Section 10 thereof states:

Article VI OTHER ACTS OF ABUSE

SEC. 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 abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 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. (Emphasis supplied.)

As gleaned from the foregoing, the provision punishes not only those enumerated under Article 59 [22] of Presidential Decree No. 603, but also four distinct acts, i.e., (a) child abuse, (b) child cruelty, (c) child exploitation and (d) being responsible for conditions prejudicial to the child's development. The Rules and Regulations of the questioned statute distinctly and separately defined child abuse, cruelty and exploitation just to show that these three acts are different from one another and from the act prejudicial to the child's development. Contrary to petitioner's assertion, an accused can be prosecuted and be convicted under Section 10(a), Article VI of Republic Act No. 7610 if he commits any of the four acts therein. The prosecution need not prove that the acts of child abuse, child cruelty and child exploitation have resulted in the prejudice of the child because an act prejudicial to the development of the child is different from the former acts.

Moreover, it is a rule in statutory construction that the word "or" is a disjunctive term signifying dissociation and independence of one thing from other things enumerated.[23] It should, as a rule, be construed in the sense which it ordinarily implies. Hence, the use of "or" in Section 10(a) of Republic Act No. 7610 before the phrase "be responsible for other conditions prejudicial to the child's development" supposes that there are four punishable acts therein. First, the act of child abuse; second, child cruelty; third, child exploitation; and fourth, being responsible for conditions prejudicial to the child's development. The fourth penalized act cannot be interpreted, as petitioner suggests, as a qualifying condition for the three other acts, because an analysis of the entire context of the questioned provision does not warrant such construal.

The subject statute defines children as persons below eighteen (18) years of age; or those over that age but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.[24] It is undisputed that the victim, under said law, was still a child during the incident.

Subsection (b), Section 3, Article I of Republic Act No. 7610, states:

(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.

The evidence of the prosecution proved that petitioner, despite the victim's protestation, relentlessly followed the latter from the waiting shed to her boarding house and even to the room where she stayed. He forcibly embraced her and threatened to kill her if she would not accept his love for her. Indeed, such devious act must have shattered her self-esteem and womanhood and virtually debased, degraded or demeaned her intrinsic worth and dignity. As a young and helpless lass at that time, being away from her parents, the victim must have felt desecrated and sexually transgressed, especially considering the fact that the incident took place before the very eyes of her two younger, innocent sisters. Petitioner who was old enough to be the victim's grandfather, did not only traumatize and gravely threaten the normal development of such innocent girl; he was also betraying the trust that young girls place in the adult members of the community who are expected to guide and nurture the well-being of these fragile members of the society. Undoubtedly, such insensible act of petitioner constitutes child abuse. As the RTC aptly observed:

It bears stressing that the mere keeping or having in a man's companion a minor, twelve (12) years or under or who is ten (10) years or more his junior in any public or private place already constitutes child abuse under Section 10(b) of the same Act. Under such rationale, an unwanted embrace on a minor would all the more constitute child abuse.[25]

This factual findings of the RTC, which were affirmed by the Court of Appeals are entitled to respect and are not to be disturbed on appeal, unless some facts or circumstances of weight and substance, having been overlooked or misinterpreted, might materially affect the disposition of the case.[26] 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. In the case under consideration, we find that the trial court did not overlook, misapprehend, or misapply any fact of value for us to overturn the

said findings.

The RTC imposed upon petitioner the penalty of prision mayor in its minimum period. The penalty is in order, pursuant to Section 10(a), Article VI of Republic Act No. 7610.

As to the award of damages, the victim is entitled to moral damages, having suffered undue embarrassment when petitioner forcibly hugged her and threatened to kill her if she would not accept petitioner's love. There is no hard-and-fast rule in the determination of what would be a fair amount of moral damages, since each case must be governed by its own peculiar facts. [27] The yardstick should be that it is not palpably and scandalously excessive.[28] The Court finds that the award of moral damages in the amount of P50,000.00 is reasonable under the facts obtaining in this case.

WHEREFORE, the 15 February 2005 Decision of the Court of Appeals in CA-G.R. CR No. 25168, which affirmed in toto the Decision of the Dumaguete City Regional Trial Court, Branch 41 in Criminal Case No. 14246 finding Gonzalo A. Araneta guilty of violating Section 10(a), Article VI of Republic Act No. 7610 and sentencing him to suffer the penalty of prision mayor in its minimum period and awarding to the victim moral damages in the amount of P50,000.00 as moral damages, is **AFFIRMED** in toto. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio, Austria-Martinez, and Reyes., JJ., concur.

* Justice Antonio T. Carpio was designated to sit as additional member replacing Justice Antonio Eduardo B. Nachura per Raffle dated 26 February 2008.

[1] Penned by Associate Justice Arsenio J. Magpale with Associate Justices Sesinando E. Villon and Vicente L. Yap, concurring; rollo, pp. 73-79.

[2] Penned by Judge Araceli S. Alafriz. Id. at 37-39.

[3] Under Republic Act No. 9262 also known as "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy. *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419.

[4] Records, p. 1.

[5] Exhibit "A." Id. at 63.

[6] TSN, 15 February 2000, p. 4.

[7] Id.

[8] Id. at 5.

[9] Id. at 6.

[10] TSN, 29 February 2000, p. 5.

[11] TSN, 15 February 2000, p. 6.

[12] Id.

[13] TSN, 6 February 2001, pp. 3-4.

[14] Id. at 5.

[15] Id. at 6.

[16] Id.

[17] Records, p. 257.

[18] Rollo, p. 79.

[19] Record of the Senate, Vol. II, No. 58, p. 793.

[20] Id.

[21] Id.

[22] Article 59. Crimes. - Criminal liability shall attach to any parent who:

(1)

Conceals or abandons the child with intent to make such child lose his civil status.

(2)

Abandons the child under such circumstances as to deprive him of the love, care and protection he needs.

(3)

Sells or abandons the child to another person for valuable consideration.

(4)

Neglects the child by not giving him the education which the family's station in life and financial conditions permit.

(5)

Fails or refuses, without justifiable grounds, to enroll the child as required by Article 72.

(6)

Causes, abates, or permits the truancy of the child from the school where he is enrolled. "Truancy" as here used means absence without cause for more than twenty schooldays, not necessarily consecutive.

It shall be the duty of the teacher in charge to report to the parents the absences of the child the moment these exceed five schooldays.

(7)

Improperly exploits the child by using him, directly or indirectly, such as for purposes of begging and other acts which are inimical to his interest and welfare.

(8)

Inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignities and other excessive chastisement that embarrass or humiliate him.

(9)

Causes or encourages the child to lead an immoral or dissolute life.

(10)

Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership.

(11)

Allows or requires the child to drive without a license or with a license which the parent knows to have been illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he permitted or ordered the child to drive.

"Parents" as here used shall include the guardian and the head of the institution or foster home which has custody of the child.

[23] *Pimentel v. Commission on Elections*, 352 Phil. 424, 434 (1998).

[24] Article I, Section 3(a) of Republic Act No. 7610.

[25] Records, p. 257.

[26] *People v. Piedad*, 441 Phil. 818, 838-839 (2002).

[27] *Cagungun v. Planters Development Bank*, G.R. No. 158674, 17 October 2005, 473 SCRA 259, 273.

[28] *Spouses Saguid v. Security Finance, Inc.*, G.R. No. 159467, 9 December 2005, 477 SCRA 255, 275-276.

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