

LEONILO SANCHEZ ALIAS NILO, APPELLANT, VS. PEOPLE OF THE PHILIPPINES AND COURT OF APPEALS, APPELLEES.

G.R. No. 179090. June 05, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision[2] dated February 20, 2007 which affirmed the Decision[3] dated July 30, 2003 of the Regional Trial Court (RTC) of Tagbilaran City, Bohol, convicting appellant Leonilo Sanchez alias Nilo (appellant) of the crime of Other Acts of Child Abuse punishable under Republic Act (R.A.) No. 7610[4] in relation to Presidential Decree (P.D.) No. 603,[5] with a modification of the penalty imposed.

The Facts

Appellant was charged with the crime of Other Acts of Child Abuse in an Information[6] dated August 29, 2001 which reads:

The undersigned, Second Assistant Provincial Prosecutor, hereby accuses Leonilo Sanchez alias Nilo of Lajog, Clarin, Bohol of the crime of Other Acts of Child Abuse, committed as follows:

That on or about the 2[nd] day of September, 2000 in the municipality of Clarin, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, acting as a Family Court, the above-named accused, with intent to abuse, exploit and/or to inflict other conditions prejudicial to the child's development, did then and there willfully, unlawfully and feloniously abuse physically one [VVV],[7] a sixteen (16) year old minor, by hitting her thrice in the upper part of her legs, and which acts are prejudicial to the child-victim's development which acts are not covered by the Revised Penal Code, as amended, but the same are covered by Art. 59, par. 8 of P.D. No. 603 as amended; to the damage and prejudice of the offended party in the amount to be proved during the trial.

Acts committed contrary to the provisions of Section 10(a) in relation to Sections 3(a) and 3(b) No. 1 of Rep. Act No. 7610 and Sec. 59(8) of PD 603, amended.

Upon arraignment, appellant pleaded not guilty. Trial on the merits ensued. In the course of the trial, two varying versions emerged.

Version of the Prosecution

Private complainant VVV was born on March 24, 1984 in Mentalongon, Dalaguete, Cebu to FFF and MMM.[8]

On September 24, 1997, VVV's father, FFF, started leasing a portion of the fishpond owned by Escolastico Ronquillo (Escolastico), located at Lajog, Clarin, Bohol. FFF and his family occupied the house beside the fishpond which was left by the former tenant.[9]

On September 2, 2000 at around 7:00 in the morning, while VVV was cutting grass in their yard, appellant arrived looking for FFF who was then at another fishpond owned by Nilda Parilla located in Boacao, Clarin, Bohol. VVV

knew appellant because he is the husband of Bienvenida Ronquillo (Bienvenida), one of the heirs of Escolastico.[10] She noticed that appellant had a sanggot (sickle) tucked in his waist.

Appellant then went to VVV's house and inquired from VVV's younger brother, BBB, the whereabouts of the latter's father. BBB did not answer but his mother, MMM, told appellant that FFF was not around. Right then and there, appellant told them to leave the place and started destroying the house with the use of his sickle. As a result, appellant destroyed the roof, the wall and the windows of the house.[11] MMM got angry and told appellant that he could not just drive them away since the contract for the use of the fishpond was not yet terminated. VVV was then sent by MMM to fetch a barangay tanod. She did as ordered but barangay tanod Nicolas Patayon refused to oblige because he did not want to interfere in the problem concerning the fishpond. On her way back to their house, VVV saw appellant coming from his shop with a gallon of gasoline, headed to their house. Appellant warned VVV to better pack up her family's things because he would burn their house.[12]

Upon reaching their house, VVV saw her brother, BBB, get a piece of wood from the back of their house to defend themselves and their house from appellant. However, appellant approached BBB, grabbed the piece of wood from the latter and started beating him with it.[13] At the sight, VVV approached appellant and pushed him. Irrked by what she did, appellant turned to her and struck her with the piece of wood three (3) times, twice on the left thigh and once below her right buttocks. As a result, the wood broke into several pieces. VVV picked up some of the broken pieces and threw them back at appellant. MMM restrained BBB, telling him not to fight back. After which, appellant left, bringing with him the gallon of gasoline.[14]

FFF arrived at about 10:00 in the morning of that day. When he learned about what had happened, FFF brought his daughter to the Clarin Health Center for medical attention and treatment.[15] Dr. Vicente Manalo (Dr. Manalo) attended to VVV and issued her a medical certificate[16] dated September 2, 2000, stating that VVV sustained the following:

CONTUSION WITH HEMATOMA PROXIMAL
LATERAL PORTION OF THIGH, RIGHT
TIME TO HEAL: 3-4 DAYS, BARRING COMPLICATIONS

From the health center, FFF and VVV went to the Clarin Police Station where they had the incident blotted.[17] Thereafter, FFF requested Eliezer Inferido to take pictures of the injuries sustained by VVV.[18]

Version of the Defense

Appellant and his wife, Bienvenida, developed and operated the fishpond from 1982 to 1987. Sometime in 1997, FFF occupied the fishpond and the nipa hut beside the same, by virtue of a Memorandum of Agreement[19] (MOA) entered into by FFF with the Heirs of Escolastico, as represented by Segundino Ronquillo. After the MOA expired in 1998, appellant and his wife, Bienvenida, decided to discontinue the lease because they did not understand the management and accounting of FFF. They made several demands on him to return possession of the fishpond but FFF refused, asking for a written termination of the contract from all the heirs of Escolastico. To solve the problem, appellant and Bienvenida engaged the services of FFF as caretaker of the fishpond, providing him with fingerlings, fertilizers and all necessary expenses.

This notwithstanding, FFF still failed to make an accounting. Thus, on September 2, 2000, at around 7:00 in the morning, after pasturing his cattle, appellant dropped by the house of FFF to ask him to make a detailed accounting because he and his wife were not satisfied with the harvest in August of 2000. MMM, however, retorted, saying that they would no longer make any accounting, as Benny Ronquillo, brother of appellant's wife, would finance the next cropping. Displeased with MMM's statement, appellant got angry and demanded that they leave the fishpond. FFF's family resented this demand and a commotion ensued. BBB got a piece of wood and

struck appellant but the latter was able to parry the blow. Appellant got hold of the piece of wood which actually broke. Intending not to hurt anybody, appellant threw the same behind him. Suddenly from behind, VVV appeared, got hold of the said piece of wood and hit appellant once at the back of his shoulder. Appellant testified that the blow was not strong enough to injure him.[20]

Appellant claimed that he was surprised that a criminal case was filed by VVV against him for allegedly beating her. Appellant denied that he beat VVV, saying that the instant case was fabricated and was being used as a means to extort money from him.[21] Moreover, appellant asseverated that Ronald Lauren[22] (Ronald) witnessed the incident.

Ronald testified that he saw BBB strike appellant with a piece of wood but appellant was able to parry the blow; that appellant threw away the piece of wood; that when appellant threw the piece of wood, there was no one there at the time; and that appellant left the place immediately.[23]

The RTC's Ruling

On July 30, 2003, the RTC found that at the arraignment, appellant, through former counsel Atty. Theodore Cabahug (Atty. Cabahug), admitted that he hit VVV, although unintentionally. Thus, appellant had the burden of proving that, at the time VVV was hit, appellant was performing a lawful act. The RTC ruled that the evidence did not favor appellant because his demand for FFF's family to vacate the fishpond, coupled with threats and punctuated with actual use of force, exceeded the limits allowed by law. The RTC also held that the injuries sustained by VVV were distinguishable, indicating that the blow was forceful, and that the force used was strong. Thus, the RTC disposed in this wise:

WHEREFORE, premises considered, this Court finds LEONILO SANCHEZ y Aranas guilty beyond reasonable doubt of violating paragraph (a), Section 10 of Republic Act No. 7610, and applying in his favor the Indeterminate Sentence Law, this Court imposes on him the indeterminate sentence of an imprisonment of Six (6) years of prison [correccional] as minimum to seven (7) years and four (4) months of prison mayor as maximum, with costs against him. The Court orders him to pay [VVV] the sum of TEN THOUSAND PESOS (P10,000.00) for civil indemnity and the sum of TEN THOUSAND PESOS (P10,000.00) for damages; the awards for civil indemnity and damages are without subsidiary penalties in case of insolvency.

IN ACCORDANCE with letter (f) of Section 31 of Republic Act No. 7610, the Court exercising its discretion also imposes on Leonilo Sanchez y Aranas the penalty of a fine of Two Thousand Pesos (P2,000.00) without subsidiary penalty in case of insolvency.

SO ORDERED.[24]

Appellant filed a Motion for Reconsideration[25] contending that appellant never admitted that he hit VVV. The RTC, however, denied the motion in its Order[26] dated August 8, 2003 for being pro forma. Aggrieved, appellant appealed to the CA.[27]

The CA's Ruling

On February 20, 2007, the CA held that the record of the proceedings taken during appellant's arraignment before the RTC belied appellant's contention that his defense was one of absolute denial. The CA pointed to a manifestation of appellant's counsel, Atty. Cabahug, in open court that appellant was putting up an affirmative defense because the act of hitting VVV was unintentional. Furthermore, the defense of absolute denial interposed by appellant cannot prevail over the positive and categorical statements of VVV and her witnesses, giving full credence to the factual findings of the RTC. The CA also ruled that the Information filed against appellant was not defective inasmuch as the allegations therein were explicit. In sum, the CA held that the prosecution had fully established the elements of the offense charged, i.e., Other Acts of Child Abuse under R.A. No. 7610 and P.D.

No. 603. However, the CA opined that the RTC erred in applying the Indeterminate Sentence Law because R.A. No. 7610 is a special law. Lastly, the CA deleted the award of civil indemnity and damages for utter lack of basis. The fallo of the CA decision reads:

WHEREFORE, all the foregoing considered, the appealed Judgment dated July 30, 2003 of the Regional Trial Court of Bohol, Branch 1, Tagbilaran City in Criminal Case No. 11110 finding accused-appellant guilty beyond reasonable doubt of Other Acts of Child Abuse under Republic Act No. 7610 and Presidential Decree No. 603 is hereby UPHeld with MODIFICATION as to the penalty imposed. Accused-appellant is sentenced to suffer an indeterminate penalty of six (6) years and one (1) day as minimum to eight (8) years as maximum of prison mayor. The fine imposed is retained.

The Order dated August 8, 2003 denying appellant's motion for reconsideration is hereby AFFIRMED.

The award of civil indemnity and damages in the assailed Decision is deleted.

With costs.

SO ORDERED.[28]

Appellant filed a Motion for Reconsideration[29] which the CA denied in its Resolution[30] dated July 11, 2007.

Hence, this Petition claiming that the CA erred:

- IN SUSTAINING THE CONVICTION OF THE ACCUSED DESPITE THE FAILURE OF THE STATE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT[;]
- IN SUSTAINING THE RULING OF THE TRIAL COURT THAT IT HAD JURISDICTION [OVER] THE CASE DESPITE A DEFECTIVE INFORMATION WHICH ALLEGED THAT THE ACTS COMPLAINED OF IS (sic) NOT COVERED BY THE REVISED PENAL CODE, AS AMENDED[; AND]
- IN SUSTAINING THE CONVICTION OF THE ACCUSED OF THE CRIME CHARGED (VIOLATION OF SECTION 10(a) OF R.A. NO. 7610) NOTWITHSTANDING THAT THE ACT COMPLAINED OF IS OBVIOUSLY COVERED BY THE REVISED PENAL CODE (Act No. 3815) AS SLIGHT PHYSICAL INJURY.[31]

Appellant posits that his conviction is not supported by proof beyond reasonable doubt; that the RTC erred when it shifted the burden of proof to appellant; that the RTC and CA erred in ruling that appellant interposed an affirmative defense when, all throughout his testimony before the RTC, he denied having inflicted any injury on VVV; and that appellant and his counsel did not sign any written stipulation for appellant to be bound thereby, hence, the burden of proof still rests in the prosecution. Moreover, appellant claims that VVV and her family had ill motive to implicate him because of the pressure he exerted against them to give up the fishpond. Appellant pointed out that VVV, in her testimony, made material inconsistencies as to who got the piece of wood at the back of their house. Appellant also claims that he had no motive or intention of harming anyone, otherwise, he would have done so earlier that day; that if BBB was also beaten, he should have submitted himself for medical treatment and examination; and that the Information charging appellant was substantially and jurisdictionally defective as the acts complained of were covered by the provisions of the Revised Penal Code. Appellant submits that, if duly proven, the acts complained of are clearly constitutive of Slight Physical Injuries punishable under Article 266[32] of the Revised Penal Code.

Appellant, likewise, posits that the instant case is not one for child abuse, since VVV was neither punished in a cruel and unusual manner nor deliberately subjected to excessive indignities or humiliation. The act was not cruel since the injury was merely slight per medical findings; the location of the injury was on the thigh which is not unusual; and VVV was not beaten in front of many people as to humiliate her. Lastly, no evidence was submitted

by the prosecution, such as a testimony of a child psychologist, or even of VVV's teacher who could have observed changes in the victim's behavior, as to prove that the injury was prejudicial to the victim's development. Appellant alleges that the charge was obviously made as one for child abuse, instead of slight physical injuries, in order to subject him to a much heavier penalty. Appellant prays for acquittal based on reasonable doubt and, in the alternative, if found guilty, he should be convicted only of the crime of slight physical injuries under the Revised Penal Code.[33]

On the other hand, the Office of the Solicitor General (OSG) asseverates that the instant Petition is fatally defective because it raises purely factual issues contrary to the mandatory provisions of Rule 45 of the Rules of Court; that the Transcript of Stenographic Notes (TSN) taken during appellant's arraignment on November 6, 2001 clearly shows that appellant, through Atty. Cabahug, raised an affirmative defense, hence, appellant cannot now change his theory; that the prosecution established the fact that appellant committed the acts complained of by virtue of the direct, positive and categorical testimonies of VVV, corroborated by MMM and duly supported by the medical examination conducted by Dr. Manalo and the entry in the police blotter; that VVV's and MMM's statements are consistent with their allegations in their respective complaint-affidavits; and that appellant failed to present any reason or ground to set aside the decisions of the RTC and the CA. Furthermore, the OSG argues that there is no ambiguity in the Information as the allegations are clear and explicit to constitute the essential elements of the offense of child abuse, to wit: (a) minority of the victim; (b) acts complained of are prejudicial to the development of the child-victim; and (c) the said acts are covered by the pertinent provisions of R.A. No. 7610 and P.D. No. 603. The OSG submits that appellant cannot now feign ignorance of the offense under which he was specifically charged, and to which he voluntarily entered a plea of not guilty when arraigned.[34]

However, the OSG opines that the CA erred in modifying the indeterminate sentence imposed by the RTC. The offense of Other Acts of Child Abuse as defined and punished under Section 10(a) of R.A. No. 7610, a special law, carries the penalty of prision mayor in its minimum period which is a penalty defined in the Revised Penal Code. The OSG states that the RTC correctly applied the first part of Section 1 of the Indeterminate Sentence Law, sentencing appellant to an indeterminate sentence of six (6) years of prision correccional, as minimum, to seven (7) years and four (4) months of prision mayor, as maximum, the minimum term thereof being within the range of the penalty next lower in degree to the prescribed penalty, as there were no attendant mitigating and/or aggravating circumstances. Thus, the OSG prays that the instant petition be denied and the assailed CA Decision be modified as aforementioned but affirmed in all other respects.[35]

Our Ruling

The instant Petition is bereft of merit.

Under Subsection (b), Section 3 of R.A. No. 7610, child abuse refers to the maltreatment of a child, whether habitual or not, 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.[36]

In this case, the applicable laws are Article 59[37] of P.D. No. 603 and Section 10(a) of R.A. No. 7610. Section 10(a) of R.A. No. 7610 provides:

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.

In this connection, our ruling in *Araneta v. People*[38] is instructive:

As gleaned from the foregoing, the provision punishes not only those enumerated under Article 59 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. 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.[39]

Appellant contends that, after proof, the act should not be considered as child abuse but merely as slight physical injuries defined and punishable under Article 266 of the Revised Penal Code. Appellant conveniently forgets that when the incident happened, VVV was a child entitled to the protection extended by R.A. No. 7610, as mandated by the Constitution.[40] As defined in the law, child abuse includes physical abuse of the child, whether the same is habitual or not. The act of appellant falls squarely within this definition. We, therefore, cannot accept appellant's contention.

In the same manner, we reject appellant's claim that the Information filed against him was defective. In *Resty Jumaquio v. Hon. Joselito C. Villarosa*,[41] we held that what controls is not the title of the information or the designation of the offense but the actual facts recited therein. Without doubt, the averments in the Information clearly make out the offense of child abuse under Section 10(a) of R.A. No. 7610. The following were alleged: (1) the minority of VVV; (2) the acts constituting physical abuse, committed by appellant against VVV; and (3) said acts are clearly punishable under R.A. No. 7610 in relation to P.D. No. 603. Indeed, as argued by the OSG, the commission of the offense is clearly recited in the Information, and appellant cannot now feign ignorance of this.

Appellant could only proffer the defense of denial. Notably, the RTC found VVV and MMM to be credible witnesses, whose testimonies deserve full credence. It bears stressing that full weight and respect are usually accorded by the appellate court to the findings of the trial court on the credibility of witnesses, since the trial judge had the opportunity to observe the demeanor of the witnesses.[42] Equally noteworthy is the fact that the CA did not disturb the RTC's appreciation of the witnesses' credibility. Thus, we apply the cardinal rule that factual

findings of the trial court, its calibration of the testimonies of the witnesses, and its conclusions anchored on such findings, are accorded respect, if not conclusive effect, especially when affirmed by the CA. The exception is when it is established that the trial court ignored, overlooked, misconstrued, or misinterpreted cogent facts and circumstances which, if considered, will change the outcome of the case. We have reviewed the records of the RTC and the CA and we find no reason to deviate from the findings of both courts and their uniform conclusion that appellant is indeed guilty beyond reasonable doubt of the offense of Other Acts of Child Abuse.[43]

However, the penalty imposed upon appellant by the CA deserves review. The imposable penalty under Section 10(a), Article VI of Republic Act No. 7610 is prision mayor in its minimum period. Applying the Indeterminate Sentence Law, the RTC imposed upon appellant the penalty of six (6) years of prision correccional, as minimum, to seven (7) years and four (4) months of prision mayor, as maximum. The CA modified this by imposing upon appellant the indeterminate penalty of six (6) years and one (1) day, as minimum, to eight (8) years, as maximum, of prision mayor, postulating that since R.A. No. 7610 is a special law, the RTC should have imposed on appellant 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." [44] On the other hand, the OSG contends that the RTC appropriately applied the Indeterminate Sentence Law, citing our ruling in *People v. Simon*. [45]

We agree with the OSG.

Section 1 of the Indeterminate Sentence Law, as amended, provides:

SECTION 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum of which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and 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.

To repeat, the penalty for Other Acts of Child Abuse is prision mayor in its minimum period. This penalty is derived from, and defined in, the Revised Penal Code. Although R.A. No. 7610 is a special law, the rules in the Revised Penal Code for graduating penalties by degrees or determining the proper period should be applied. Thus, where the special law adopted penalties from the Revised Penal Code, the Indeterminate Sentence Law will apply just as it would in felonies. [46] In *People v. Simon*, [47] the Court applied the first clause of Section 1 of the Indeterminate Sentence Law to cases of illegal drugs. In *Cadua v. Court of Appeals*, [48] the Court applied the same principle to cases involving illegal possession of firearms. In those instances, the offenses were also penalized under special laws. Finally, in *Dulla v. Court of Appeals*, [49] a case involving sexual abuse of a child as penalized under Section 5(b), Article III of R.A. No. 7610, the Court likewise applied the same first clause of the Indeterminate Sentence Law. This case should be no exception.

In the absence of any modifying circumstances, and because it is favorable to appellant, we find the penalty of four (4) years, nine (9) months and eleven (11) days of prision correccional, as minimum, to six (6) years, eight (8) months and one (1) day of prision mayor, as maximum, proper.

As a final word, we reiterate our view in *Araneta*, [50] to wit:

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." 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. 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.[51]

WHEREFORE, the Petition is DENIED. The Court of Appeals Decision dated February 20, 2007 in CA-G.R. CR No. 27817 is AFFIRMED with MODIFICATION that appellant Leonilo Sanchez is hereby sentenced to four (4) years, nine (9) months and eleven (11) days of prision correccional, as minimum, to six (6) years, eight (8) months and one (1) day of prision mayor, as maximum. Costs against appellant.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio,[*] Corona,**] and Peralta, JJ., concur.

[*] Additional member in lieu of Associate Justice Conchita Carpio Morales per Special Order No. 646 dated May 15, 2009.

[**] Additional member in lieu of Associate Justice Minita V. Chico-Nazario per Special Order No. 631 dated April 29, 2009.

[1] Dated August 28, 2007; rollo, pp. 10-30.

[2] Particularly docketed as CA-G.R. CR No. 27817, penned by Associate Justice Priscilla Baltazar-Padilla, with Associate Justices Arsenio J. Magpale and Romeo F. Barza, concurring; rollo, pp. 39-55.

[3] Particularly docketed as Crim. Case No. 11110 and penned by Judge Teofilo D. Baluma; rollo, pp. 61-82.

[4] The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.

[5] The Child and Youth Welfare Code.

[6] Rollo, pp. 59-60.

[7] Per this Court's Resolution dated September 19, 2006 in A.M. No. 04-11-09-SC, as well as our ruling in *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006, 502 SCRA 419), pursuant to Republic Act No. 9262, also known as the "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 other than the accused are to be withheld and fictitious initials are instead used to protect the victim's privacy.

[8] Records, p. 10.

[9] TSN, January 25, 2002, p. 4.

[10] *Id.* at 3-5.

[11] *Id.* at 6.

[12] *Id.* at 6-10.

[13] Records, pp. 3-4.

[14] TSN, February 5, 2002, pp. 2-7.

[15] Id. at 7-8.

[16] Records, p. 11.

[17] Supra note 12, at 11-13; records, p. 82.

[18] TSN, May 13, 2002; records, p. 85.

[19] Records, pp. 106-107.

[20] TSN, July 24, 2002.

[21] TSN, August 28, 2002.

[22] Initially referred to by appellant as Tagoro Laurel; id. at 11.

[23] TSN, October 14, 2002, pp. 5-6.

[24] Rollo, p. 82.

[25] Id. at 83-88.

[26] Id. at 89-92.

[27] Records, p. 183.

[28] Rollo, pp. 54-55.

[29] Id. at 56-58.

[30] Id. at 36-37.

[31] Supra note 1, at 18.

[32] Art. 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;

2. By arresto menor or a fine not exceeding 200 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical attendance;

3. By arresto menor in its minimum period or a fine not exceeding 50 pesos when the offender shall ill-treat another by deed without causing any injury.

[33] Supra note 1 and Appellant's Reply dated October 15, 2008; rollo, pp. 183-192.

[34] OSG's Comment dated June 6, 2008; rollo, pp. 151-179.

[35] Id.

[36] Emphasis supplied.

[37] ART. 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.

[38] G.R. No. 174205, June 27, 2008, 556 SCRA 323.

[39] *Id.* at 333-335. (Emphasis supplied, citations omitted.)

[40] Article XV, Section 3, paragraph 2, of the 1987 Constitution provides 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."

[41] G.R. No. 165924, January 19, 2009.

[42] *People v. Roma*, G.R. No. 147996, September 30, 2005, 471 SCRA 413, 426-427.

[43] *Casitas v. People*, G.R. No. 152358, February 5, 2004, 422 SCRA 242, 248.

[44] Sec. 1, Act No. 4103.

[45] G.R. No. 93028, July 29, 1994, 234 SCRA 555.

[46] REGALADO, *Criminal Law Conspectus*, First Edition, p. 205, citing *People v. Martin Simon*; *id.*

[47] *Supra* note 45.

[48] 371 Phil. 627 (1999).

[49] 382 Phil. 791 (2000).

[50] *Supra* note 38.

[51] Id. at 332. (Citations omitted.)

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