

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. BENITO MOLEJON, ACCUSED-APPELLANT.

G.R. No. 208091. April 23, 2018

Ponente: TIJAM, J.

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TIJAM, J.:

Challenged in this appeal[1] is the Decision[2] dated April 24, 2013 of the Court of Appeals (CA) in CA-G.R. CR. HC No. 00919-MIN, which affirmed with modification the Joint Decision[3] dated August 5, 2010 of the Regional Trial Court (RTC), Branch 1 of Isabela, Basilan, convicting accused-appellant Benito Molejon of five counts of Qualified Rape under Art. 266-A of the Revised Penal Code (RPC), as amended by Republic Act No. 8353 (R.A.) No. 8353,[4] in Criminal Case Nos. 3895-604, 3896-605, 3897-606, 3901-608, 3902-609; and 11 counts of acts of lasciviousness under Art. 336 of the RPC, in Criminal Case Nos. 4156-798, 4157-799, 4158-800, 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166-808.

The antecedent facts are as follows:

Accused-appellant Benito Molejon was charged in five separate informations, with five counts of rape; three of which was committed against his own 13-year old stepdaughter AAA[5] and, two against his 11-year old stepdaughter BBB. Except for the dates of the commission of the crime and the age of the victims, the first information[6] set forth allegations similar to the other four informations, viz:

That in or about the 1[st] week of January, 2003, and within the jurisdiction of this Honorable Court, viz., at Barangay Busay, Isabela City, Zamboanga Peninsula, Philippines, the above[-] named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeeded in having carnal knowledge of said AAA, against her will.

That the commission of the crime of rape was attended by the following aggravating/qualifying circumstances, to wit:

1. That the victim was only thirteen (13) years old during the commission of said crime;
2. That the offender is the step-father of the offended party; and
3. That there was force, threat and intimidation.

Contrary to law.[7]

Accused-appellant was likewise charged in 11 separate informations with the crime of acts of lasciviousness under Art. 335 of the RPC, eight of which were committed against AAA and three against BBB. Except for the dates of the commission of the crime and the ages of the victims, the first information[8] set forth allegations similar to the other ten informations, viz:

That on or about the 28[th] day of June, 2003, and within the jurisdiction of this Honorable Court, viz., at Barangay Busay, Isabela City, Zamboanga Peninsula, Philippines, the above[-]named accused, actuated by

lust, did then and there willfully, unlawfully and feloniously, commit an act of lasciviousness on the undersigned complainant, who was only 11 years old, by then and there touching and fingering her vagina, against her will and by means of force.

Contrary to law.[9]

During his arraignment, accused-appellant pleaded not guilty to all the charges against him. Thereafter, the charges were consolidated and jointly heard. The prosecution presented five witnesses, namely: Complainants AAA; BBB; the victims' mother CCC; Dr. Nilo R. Barandino; and PO2 Jane Jacinto Martin.

AAA, who was born on July 9, 1989,[10] averred that on different occasions, i.e., from July and August 2001, to September-December 2001, and January-November 2002, up to January 2003, she was either raped or sexually abused and molested by her own step-father. She testified that on separate dates, the accused-appellant would kiss her lips and neck, while caressing her breasts and fingering her vagina repeatedly. She recalled the time when accused-appellant suddenly entered her room and once inside, he kissed her lips, licked her vagina, mounted her, inserted his penis into her vagina and made a push-and-pull movement, causing her to cry in pain. These beastly acts would be committed several times, until January 2003. [11]

For her part, BBB, who was born on February 5, 1992,[12] gave an identical testimony of her step-father's licentious acts, which she experienced from October 2002 to May 2003, up to June 22, 2003 and June 28, 2003. She narrated that accused-appellant would insert his finger in her vagina, remove her panties and eventually thrust his penis. She even felt that accused-appellant excreted a sticky substance while his penis was inside her vagina.[13]

AAA and BBB both testified that accused-appellant threatened to kill them, including their mother and siblings, if they ever divulge to anyone their awful experience.[14]

The siblings' appalling ordeal would finally come to an end in the afternoon of June 28, 2003, when their mother CCC, witnessed accused-appellant standing behind BBB, with his left hand inserted inside BBB's shorts. Angered, CCC kicked and punched accused-appellant. Thereafter, AAA and BBB started crying. They revealed to CCC every act that accused-appellant committed against them.[15]

The rape incident and sexual abuse were subsequently reported to the police, resulting to the accused-appellant's arrest.

On June 29, 2003, CCC brought AAA and BBB to the Provincial General Hospital, where they were attended to by Dr. Barandino. According to the doctor, the healed lacerations on the victims' hymens was consistent with AAA's and BBB's testimonies that they were raped by the accused-appellant long before the date of their medical examinations.[16]

For his part, the accused-appellant denied the charges. He claimed that no rape was committed because the victims never testified that he uttered threatening words, or that he was armed with a weapon when the crimes were committed. Accused-appellant likewise questioned the credibility of the AAA's and BBB's testimonies. He argued that it is contrary to human experience for AAA to continue acting normally despite having been sexually abused. As to BBB, accused-appellant maintained that he could not have raped her since the room where the incident happened was then occupied by her sister and her mother.[17]

On August 5, 2010, the RTC rendered its Decision,[18] convicting the accused-appellant of five counts of Qualified Rape under Art. 266-A of the RPC, as amended by R.A. No. 8353; and 11 counts of acts of lasciviousness under Art. 336 of the RPC.

On appeal, the CA rendered its April 24, 2013 Decision,[19] affirming with modification the RTC's Decision, only insofar as the award of damages is concerned.

On June 6, 2013, accused-appellant appealed the CA's Decision before this Court.

In his appeal, aside from invoking the defense of denial and alibi, accused-appellant insists that the testimonies of AAA and BBB failed to establish that he committed rape and acts of lasciviousness against them. He claims that since neither of the victims saw what he supposedly inserted in their genitalia and since they only narrated that the insertion caused them pain, the prosecution failed to prove his guilt beyond reasonable doubt. In short, accused-appellant challenges the credibility of AAA and BBB, including that of their testimonies.

The OSG, on the other hand, maintains that the prosecution proved all the elements of the crime of rape and acts of lasciviousness beyond reasonable doubt, on the basis of the victims' positive and candid narration of what transpired during the harrowing incidents.

The appeal is bereft of merit.

The factual findings of the trial court, especially when affirmed by the CA, are entitled to great weight and respect. The trial court, as the original trier of the facts, was in the best position to keenly observe the witnesses rendering their respective versions of the events that made up the occurrences constituting the ingredients of the offense charged.[20]

After a careful review of the evidence and testimony proffered by the prosecution, the Court opines that the trial court and the CA were not mistaken in their assessment of the testimonies of AAA and BBB. The accused-appellant failed to show that both tribunals overlooked a material fact that otherwise would change the outcome of the case or misunderstood a circumstance of consequence in their evaluation of the credibility of the witnesses.[21] Thus, this Court will not disturb the RTC's findings of fact as affirmed by the CA, but must fully accept the same.

Contrary to the accused-appellant's claim, the alleged inconsistencies are understandable considering that AAA and BBB were only minors at the time they testified before the trial court. We held in *People v. Lagbo*,[22] that:

x x x Courts expect minor inconsistencies when a child-victim narrates the details of a harrowing experience like rape. Such inconsistencies on minor details are in fact badges of truth, candidness and the fact that the witness is unrehearsed. These discrepancies as to minor matters, irrelevant to the elements of the crime, cannot, thus, be considered a ground for acquittal. x x x (Citations omitted)[23]

As correctly observed by the trial court:

The testimony of AAA and BBB are consistent on material points. Slightly conflicting statements will not undermine the witness's credibility or the veracity of their testimony. They in fact tend to buttress rather than impair their credibility as they erase any suspicion of rehearsed testimony. The defense was not able to elicit significant contradictions in the testimonies of the child victims to render them as purely imagined motivated only by their desire to get even with the accused. The claim of the accused that AAA and BBB never disrespected him as they even kiss his hand and call him tito is not indication enough [sic] that he never committed the acts imputed on him and even when taken together with the testimony of his brother that there appeared to be no ill feelings pervading in the family.

x x x x

Carnal knowledge had also been proven. The respective testimonies of AAA and BBB vividly describe their harrowing experience in the hands of the accused. It bears emphasis that the accused resorted to force, threat and intimidation to consummate his lust. The Supreme Court has consistently held that rape is committed when

intimidation is used on the victim, which includes moral intimidation or coercion. The accused also committed acts of lasciviousness using intimidation on AAA and BBB. The essence of acts of lasciviousness is lewd design, that is, deriving vicarious pleasure from acts performed on the person of the victim. The acts complained of have been sufficiently proved by the testimonies of the complainants.[24]

The CA echoed this assertion, when it pointed out that:

The testimonies of AAA and BBB were direct, candid, and replete with details of the acts of rape and lasciviousness. They were consistent and straightforward in their answers during the direct and cross examination. They did not waiver in their personal accounts of how the accused kissed them, mashed their breasts and later 'fingering' their genitalia, and in other instances inserted his penis into their vaginas to consummate his lustful designs. The presence of their mother in the house during the incident did not discourage the appellant from committing beastly acts on AAA and BBB. While neither AAA nor BBB really put up a struggle more palpable than merely trying to resist, it should be noted nonetheless that appellant was unmistakably threatening to kill them and all their loved ones. Moreover, the fact that AAA and BBB had been living with appellant who is their stepfather who had considerable moral ascendancy over them sufficiently explains why they did not offer a more physical resistance.

x x x x

It would be foolish fallacy to say that the victims' mere failure to shout or physically express their tenacious resistance were equivalent to voluntary submission to the lecherous conduct of the offender. It was certainly enough that they had repeatedly tried, though unsuccessfully, to resist his advances and pleaded him to stop.[25]

We give short shrift to accused-appellant's contention that he could not have sexually abused AAA and BBB since they lived in a cramped house with several occupants. Suffice it to say that lust is no respecter of time or place, and rape defies constraints of time and space.[26] In *People v. Nuyok*,[27] We ruled that the presence of other occupants in the same house where the accused and the victim lived does not necessarily restrain the accused from committing the crime of rape. Thus:

The presence of others as occupants in the same house where the accused and AAA lived did not necessarily deter him from committing the rapes. The crowded situation in any small house would sometimes be held to minimize the opportunity for committing rape, but it has been shown repeatedly by experience that many instances of rape were committed not in seclusion but in very public circumstances. Cramped spaces of habitation have not halted the criminal from imposing himself on the weaker victim, for privacy is not a hallmark of the crime of rape. x x x[28]

Then, too, accused-appellant's defenses, consisting of mere denial and alibi, fail to persuade Us.

Denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law,[29] as in this case. Likewise, alibi is one of the weakest defenses not only because it is inherently frail and unreliable, but also because it is easy to fabricate and difficult to check or rebut.[30] Here, accused-appellant's alibi cannot prevail over the positive identification of his own step-daughters who had no improper motive to testify falsely.

However, the CA Decision is modified as to the penalty imposed and the damages awarded in Criminal Case Nos. 3895-604, 3896-605, 3897-606, 3901-608, and 3902-609. For qualified rape by sexual intercourse, accused-appellant is sentenced to suffer the penalty of five counts of reclusion perpetua without eligibility for parole,[31] and is ordered to pay AAA the amounts of P100,000 as civil indemnity, P100,000 as moral damages and P100,000 as exemplary damages for each count, in line with current jurisprudence.[32]

The crime of qualified rape under paragraph 1, Article 266-A of the RPC, is penalized under Article 266-B(1), which provides that the death penalty shall be imposed if the victim is under 18 years of age and the offender, among others, is the step-parent. Applying R.A. No. 9346,[33] the CA correctly imposed the penalty of reclusion perpetua, and specified that it is without eligibility for parole. When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification "without eligibility for parole" shall be used to qualify reclusion perpetua in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.[34]

Meanwhile, the damages awarded by the RTC, as affirmed by the CA, should be modified in view of *People v. Jugueta*[35] where it was held that in cases of qualified rape where the imposable penalty is death but the same is reduced to reclusion perpetua because of R.A. No. 9346, the amounts of civil indemnity, moral damages and exemplary damages shall be in the amount of P100,000 each.[36]

As regards the 11 counts of acts of lasciviousness under Art. 336 of the RPC, in Criminal Case Nos. 4156-798, 4157-799, 4158-800, 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166- 808, the CA Decision is likewise modified as to the nomenclature of the offense, the penalty imposed and the damages awarded.

As We have held in *People v. Caoili*:[37]

Based on the language of Section 5(b) of R.A. No. 7610, however, the offense designated as Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 of R.A. No. 7610 should be used when the victim is under 12 years of age at the time the offense was committed. This finds support in the first proviso in Section 5(b) of R.A. No. 7610 which requires 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." x x x

Conversely, when the victim, at the time the offense was committed is aged twelve (12) years or over but under eighteen (18), or is eighteen (18) or older but unable to fully take care of herself/himself or protect himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the nomenclature of the offense should be Lascivious Conduct under Section 5(b) of R.A. No. 7610, since the law no longer refers to Article 336 of the RPC, and the perpetrator is prosecuted solely under R.A. No. 7610.

x x x x

2. If the victim is under twelve (12) years of age, the nomenclature of the crime should be "Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of .R.A. No. 7610." Pursuant to the second proviso in Section 5(b) of R.A. No. 7610, the imposable penalty is reclusion temporal in its medium period.

3. If the victim is exactly twelve (12) years of age, or more than twelve (12) but below eighteen (18) years of age, or is eighteen (18) years old or older but is unable to fully take care of herself/himself or protect herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the crime should be designated as "Lascivious Conduct under Section 5(b) of R.A. No. 7610," and the imposable penalty is reclusion temporal in its medium period to reclusion perpetua.[38]

Taking cue from the aforequoted statement, the accused-appellant in *Crim. Case Nos. 4156-798, 4157-799 and 4158-800*, should be convicted of acts of lasciviousness under Article 336 of the RPC in relation to Section 5(b), Article III of R.A. No. 7610.[39] This is so because the victim BBB was under 12 years old at the time of the commission of the offense.

With respect, however, to Crim. Case Nos. 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166-808, the proper nomenclature of the offense should be lascivious conduct under Section 5(b), Article III of R.A. No. 7610, for the reason that the victim AAA was already 12 years of age when the offense was committed.

Elements of the crime of Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b)

Jurisprudentially, before an accused can be held criminally liable for lascivious conduct under Section 5(b) of R.A. No. 7610, the requisites of the crime of acts of lasciviousness as penalized under Article 336 of the RPC must be met in addition to the requisites for sexual abuse under Section 5(b) of R.A. No. 7610.[40]

On the one hand, conviction under Article 336 of the RPC requires that the prosecution establish the following elements: (a) the offender commits any act of lasciviousness or lewdness upon another person of either sex; and (b) the act of lasciviousness or lewdness is committed either (i) by using force or intimidation; or (ii) when the offended party is deprived of reason or is otherwise unconscious; or (iii) when the offended party is under 12 years of age.[41]

On the other hand, sexual abuse under Section 5(b), Article III of R.A. No. 7610 has three elements: (1) the accused commits an act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child is below 18 years old.[42]

First, it has been established that accused-appellant committed lewd designs with his step-daughter. The records show that accused-appellant on different occasions, fingered, fondled and inserted his finger into BBB's vagina. These acts undoubtedly constitute lascivious conduct under Section 2(h) of the Implementing Rules and Regulations (IRR) of R.A. No. 7610, to wit:

(h) "Lascivious conduct" means 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 public area of a person.

Second, accused-appellant, as a step-father having moral ascendancy over his step-daughter, coerced BBB to engage in lascivious conduct, which is within the purview of sexual abuse. In *Quimvel v. People*,[43] We held:

As regards the second additional element, it is settled that the child is deemed subjected to other sexual abuse when the child engages in lascivious conduct under the coercion or influence of any adult. Intimidation need not necessarily be irresistible. It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. The law does not require physical violence on the person of the victim; moral coercion or ascendancy is sufficient.

The petitioner's proposition-that there is not even an iota of proof of force or intimidation as AAA was asleep when the offense was committed and, hence, he cannot be prosecuted under RA 7610-is bereft of merit. When the victim of the crime is a child under twelve (12) years old, mere moral ascendancy will suffice. (Emphasis ours and citations omitted.)[44]

Third, BBB, who was then 11 years old, was clearly below 18 years old at the time of the commission of the offense, based on her testimony which was corroborated by her Birth Certificate presented during the trial. Section 3(a), Article I of R.A. No. 7610 provides:

Section 3. Definition of Terms.-

(a) "Children" refers [to] persons below eighteen (18) years of age or those over 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;

Elements of the crime of Lascivious Conduct under Section 5(b) of R.A. No. 7610

As mentioned earlier, the elements of sexual abuse under Section 5(b), Article III of Republic Act No. 7610 are as follows: (1) the accused commit the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to sexual abuse; and (3) the child, whether male or female, is below 18 years of age.

First, based on the records, accused-appellant repeatedly committed the following acts against AAA: kissing her neck and lips; inserting his finger into her vagina; and licking and sucking her breasts. These acts clearly falls within the scope of lascivious conduct under Section 2(h) of the IRR of R.A. No. 7610.[45]

Second, the accused-appellant, having moral ascendancy over his step-daughter, forced AAA to engage in lascivious conduct, which is within the contemplation of sexual abuse. Indeed, intimidation need not necessarily be irresistible. It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. Moral coercion or ascendancy is, thus, sufficient.[46]

Third, AAA testified that she was over 12 and below 18 years old at the time of the commission of the offense. This was corroborated by her Birth Certificate presented during trial.

We stress that although there was no mention of Sec. 5(b), Article III of R.A. No. 7610 in the information, this omission is not fatal so as to violate his right to be informed of the nature and cause of accusation against him. Indeed, what controls is not the title of the information or the designation of the offense, but the actual facts recited in the information constituting the crime charged.[47] In *Olivarez v. CA*,[48] this Court found the information sufficient to convict the accused of sexual abuse despite the absence of the specific sections of R.A. No. 7610 alleged to have been violated by the accused. Thus:

The information merely states that petitioner was being charged for the crime of 'violation of R.A. 7610' without citing the specific sections alleged to have been violated by petitioner. Nonetheless, we do not find this omission sufficient to invalidate the information. The character of the crime is not determined by the caption or preamble of the information nor from the specification of the provision of law alleged to have been violated, they may be conclusions of law, but by the recital of the ultimate facts and circumstances in the complaint or information. The sufficiency of an information is not negated by an incomplete or defective designation of the crime in the caption or other parts of the information but by the narration of facts and circumstances which adequately depicts a crime and sufficiently apprise the accused of the nature and cause of the accusation against him.

True, the information herein may not refer to specific section/s of R.A. 7610 alleged to have been violated by the petitioner, but it is all to evident that the body of the information contains an averment of the acts alleged to have been performed by petitioner which unmistakably refers to acts punishable under Section 5 of R.A. 7610. As to which section of R.A. 7610 is being violated by petitioner is inconsequential. What is determinative of the offense is the recital of the ultimate facts and circumstances in the complaint or information.[49] (Citations omitted.)

Here, the facts stated in the Information against the accused-appellant correctly made out a charge for violation of Article 336 of the RPC in relation to Section 5(b) of R.A. No. 7610, with respect to BBB, and Lascivious Conduct under Section 5(b) of R.A. No. 7610, with respect to AAA. As discussed earlier, the records show that accused-appellant, who exercised moral ascendancy over his minor step-daughters who were then under 11 and 12 years of age, repeatedly coerced and forced them to engage in lascivious conduct which is within the purview

of sexual abuse contemplated in Section 5(b). Thus, even if the trial and appellate courts followed the improper designation of the offense, accused-appellant could be convicted of the offense on the basis of the facts recited in the information and duly proven during trial.[50]

Penalty of the crime of Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b)

Section 5(b) of R.A. No. 7610[51] provides that the penalty for lascivious conduct, when the victim is under 12 years of age, shall be reclusion temporal in its medium period, which ranges from 14 years, 8 months and 1 day to 17 years and 4 months.[52]

Meanwhile, Section 1 of Act No. 4103,[53] otherwise known as the Indeterminate Sentence Law (ISL), provides that if the offense is ostensibly punished under a special law, the minimum and maximum prison term of the indeterminate sentence shall not be beyond what the special law prescribed.[54] But as We have clarified in *People v. Simon*,[55] the situation is different where although the offense is defined in a special law, the penalty therefor is taken from the technical nomenclature in the RPC. Under such circumstance, the legal effects under the system of penalties native to the Code would also necessarily apply to the special law.

Here, since the crime was committed by the stepfather of the offended parties, the alternative circumstance of relationship should be appreciated.[56] In crimes against chastity, such as acts of lasciviousness, relationship is always aggravating.[57] With the presence of this aggravating circumstance and no mitigating circumstance, the penalty shall be applied in its maximum period, i.e., sixteen (16) years, five (5) months and ten (10) days to seventeen (17) years and four (4) months,[58] without eligibility of parole.[59] This is in consonance with Section 31(c)[60] of R.A. No. 7610 which expressly provides that the penalty shall be imposed in its maximum period when the perpetrator is, inter alia, the stepparent of the victim.

Accordingly, the prison term meted to accused-appellant shall be 17 years and 4 months as maximum. On the other hand, the minimum term shall be taken from the penalty next lower to reclusion temporal medium, that is reclusion temporal minimum, which ranges from 12 years and 1 day to 14 years and 8 months.

In keeping with jurisprudence,[61] accused-appellant is liable to pay the victims P15,000 as fine pursuant to Section 31(f)[62] of R.A. No. 7610, as well as to pay AAA and BBB the amounts of P20,000 as civil indemnity, P15,000 as moral damages, and P15,000 as exemplary damages.

Penalty of the crime of Lascivious Conduct under Section 5(b) of R.A. No. 7610

Considering that AAA was over 12 but under 18 years of age at the time of the commission of the lascivious act, the imposable penalty is reclusion temporal in its medium period to reclusion perpetua, based on Section 5 (b) of RA 7610.[63]

Corrolarily, the alternative circumstance of relationship should be appreciated since the crime was committed by the step-father of the offended party.[64] With the presence of this aggravating circumstance and no mitigating circumstance, the penalty shall be applied in its maximum period, i.e., reclusion perpetua, without eligibility of parole.[65] This is in consonance with Section 31(c)[66] of R.A. No. 7610 which expressly provides that the penalty shall be imposed in its maximum period when the perpetrator is, inter alia, the stepparent of the victim.

Likewise, Section 31(f)[67] of R.A. No. 7610 imposes a fine upon the perpetrator, which jurisprudence pegs in the amount of P15,000.[68] In light of recent jurisprudence, when the circumstances surrounding the crime call for the imposition of reclusion perpetua, the victim is entitled to civil indemnity, moral damages and exemplary damages each in the amount of P75,000, regardless of the number of qualifying aggravating circumstances present.[69]

Further, the amount of damages awarded for each and every count of qualified rape; acts of lasciviousness under Article 336 of the RPC in relation to Section 5(b) of R.A. No. 7610; and lascivious conduct under Sec. 5(b) of R.A. No. 7610, should earn interest at the rate of 6% per annum from the finality of this judgment until said amounts are fully paid.[70]

WHEREFORE, premises considered, the April 24, 2013 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00919-MIN is AFFIRMED with MODIFICATION. Accused-appellant Benito Molejon is hereby found GUILTY beyond reasonable doubt of the following:

(1) Five counts of qualified rape in Criminal Case Nos. 3895-604, 3896-605, 3897-606, 3901-608, and 3902-609. He is sentenced to suffer the penalty of reclusion perpetua, in each count, without eligibility for parole. For each and every count of the crime of qualified rape, he is ordered to pay private offended parties P100,000 as civil indemnity; P100,000 as moral damages; and P100,000 as exemplary damages; and

(2) Three counts of acts of lasciviousness under Article 336 of the RPC in relation to Section 5(b), Article III, of R.A. No. 7610, in Criminal Case Nos. 4156-798, 4157-799, and 4158-800. He is sentenced to suffer the indeterminate imprisonment of 12 years and 1 day of reclusion temporal minimum, as minimum to 17 years and 4 months of reclusion temporal medium, as maximum. For each and every count of acts of lasciviousness under Article 336 of the RPC in relation to Section 5(b), Article III, of R.A. No. 7610, he is ordered to pay the victim BBB P15,000 as fine, as well as P20,000 as civil indemnity; and moral damages and exemplary damages each in the amount of P15,000.

(3) Eight counts of Lascivious Conduct under Section 5(b), Article III, of R.A. No. 7610 in Criminal Case Nos. 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166-808. He is sentenced to suffer the penalty of reclusion perpetua, without eligibility of parole, and to pay a fine of P15,000. He is further ordered to pay the victim, AAA, civil indemnity, moral damages and exemplary damages each in the amount of P75,000.

All monetary awards for damages shall earn an interest rate of 6% per annum to be computed from the finality of the judgment until fully paid.

SO ORDERED.

Leonardo-De Castro[*] Peralta,**] and Del Castillo, JJ., concur.
Sereno, C.J., (Chairperson), on leave.

[*] Designated as Acting Chairperson pursuant to Special Order No. 2540 dated February 28, 2018.

[**] Designated as additional Member per Raffle dated April 23, 2018.

[1] Rollo, pp. 19-21; CA Rollo, pp. 204-206.

[2] Penned by Associate Justice Edgardo A. Camello, with the concurrence of Associate Justices Jhosep Y. Lopez and Henri Jean Paul B. Inting; Rollo, pp. 185-200.

[3] Penned by Judge Leo Jay T. Prinicipio; CA Rollo, pp. 135-156.

[4] The Anti-Rape Law of 1997.

[5] Consistent with the ruling of this Court in *People v. Cabalquinto*, the real name and identity of the rape victims, as well as the members of her immediate family, are not disclosed. The rape victims shall herein be

referred to as AAA and BBB, respectively. Their personal circumstances as well as other information tending to establish their identity, and that of their immediate family or household members, are not disclosed in this decision.

[6] Criminal Cases No. 3895-604; as mentioned in the RTC's Decision, CA Rollo, pp. 135-156.

[7] Records (RTC 3896-605), pp. 1-2.

[8] Criminal Cases Nos. 4156-798; Id.

[9] Records (RTC 4156-798), p. 1.

[10] Records (RTC 3896-605), p. 114.

[11] Rollo, p. 5-6.

[12] Records (RTC 3896-605), p. 113.

[13] Rollo, p. 6.

[14] Id.

[15] Id. at 8.

[16] Id.

[17] CA rollo, pp. 126-132.

[18] WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Cases Nos. 3895-604, 3896-605, 3897-606, 3901-608, and 3902-609, the accused Benito Molejon is found "GUILTY" beyond reasonable doubt of QUALIFIED RAPE as charged under Art. 266-A as amended by RA No. 8353 and is accordingly sentenced to:

a) Suffer the penalty of Reclusion Perpetua in each of the five (5) counts of qualified rape or in Criminal Cases Nos. 3895-604, 3896-605, 3897-606, 3901-608, and 3902-609;

b) Indemnify the victim AAA the sum of P50,000.00 as moral damages and P20,000.00 as exemplary damages for each count of qualified rape committed against her or in Criminal Cases No. 3895-604, 3896-605, and 3897-606;

c) Indemnify the victim BBB the sum of P50,000.00 as moral damages and P20,000.00 as exemplary damages for each count of qualified rape committed against her or in Criminal Cases No. 3901-608, and 3902-609;

2. In Criminal Cases Nos. 4156-798, 4157-799, 4158-800, 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166-808, the accused Benito Molejon is found "GUILTY" beyond reasonable doubt of Acts of Lasciviousness as charged under Art. 336 of the Revised Penal Code and is accordingly sentenced to:

a) Suffer the penalty of from 6 months of arresto mayor as minimum and 6 years of prision correccional as maximum in each of the eleven (11) counts of acts of lasciviousness; or in Criminal Cases Nos. 4156-798, 4157-799, 4158-800, 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166-808;

b) Indemnify AAA the sum of P20,000.00 as moral damages and P20,000.00 as exemplary damages for each count of lascivious acts committed against her or in Criminal Cases No. 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166-808;

c) Indemnify the victim BBB the sum of P20,000.00 as moral damages and P20,000.00 as exemplary damages for each count of lascivious acts committed against her or in Criminal Cases No. 4156-798, 4157-799, and

4158-800.

SO ORDERED. Id. at 33-54.

[19] FOR THE REASONS STATED, the Judgment appealed from is AFFIRMED in so far as it held appellant guilty beyond reasonable doubt of five (5) counts of QUALIFIED RAPE, and eleven (11) counts for acts of lasciviousness subject, however, to the following MODIFICATIONS, namely:

(1) The accused is sentenced in each count of qualified rape, to suffer the penalty of reclusion perpetua in lieu of death, without eligibility of parole;

(2) He shall pay the victims, the sums of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages, for each and every count of qualified rape;

(3) The accused is sentenced in each count of acts of lasciviousness to suffer the penalty of imprisonment from 6 months of arresto mayor as minimum and 6 years of prision correccional as maximum;

(4) He shall pay the victims the amount of P20,000.00 as civil indemnity, P30,000.00 as moral damages and P2,000.00 as exemplary damages, for each and every count of acts of lasciviousness.

Costs against appellant.

SO ORDERED. Rollo, pp. 3-18.

[20] See *People v. Deligero*, 709 Phil. 783, 797 (2013).

[21] *People v. Vidaña*, 720 Phil. 531, 538 (2013).

[22] G.R. No. 207535, February 10, 2016.

[23] Id.

[24] CA Rollo, pp. 149-152.

[25] Rollo, pp. 193-194.

[26] *People v. Pareja*, 724 Phil. 759, 777 (2014).

[27] 759 Phil. 437 (2015).

[28] Id. at 454.

[29] *People v. Vitero*, 708 Phil. 49, 63 (2013).

[30] Id.

[31] Pursuant to Article 2668 of the RPC, as amended by R.A. No. 8353, in relation to Section 3 of R.A. No. 9346.

[32] *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331.

[33] An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[34] A.M. No. 15-08-02-SC entitled Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties.

[35] *People v. Jugueta*, supra.

[36] *People v. Galagati*, G.R. No. 207231, June 29, 2016.

[37] G.R. Nos. 196342 and 196848, August 8, 2017.

[38] Id.

[39] Special Protection of Children Against Abuse, Exploitation and Discrimination Act of 1992.

[40] People v. Ladra, G.R. No. 221443, July 17, 2017.

[41] Cruz v. People, 745 Phil. 54, 73-74 (2014).

[42] People v. Fragante, 657 Phil. 577, 596 (2011).

[43] G.R. No. 214497, April 18, 2017.

[44] Id.

[45] (h) "Lascivious conduct" means 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 public area of a person.

[46] Quimvel v. People, G.R. No. 214497, April 18, 2017.

[47] People v. Ursua, G.R. No. 218575, October 4, 2017.

[48] 503 Phil. 421 (2005).

[49] Id. at 439.

[50] Malto v. People, 560 Phil. 119, 136 (2007).

[51] Article III, Section 5(b) of RA 7610 reads: (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; x x x

[52] See table in Art. 76. of the Revised Penal Code.

[53] An Act To Provide For An Indeterminate Sentence And Parole For All Persons Convicted Of Certain Crimes By The Courts Of The Philippine Islands; To Create A Board Of Indeterminate Sentence And To Provide Funds Therefor; And For Other Purposes.

[54] 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 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. (Emphasis ours)

[55] 304 Phil. 725 (1994).

[56] Article 15 of the RPC: Art. 15. Their concept. - Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other

conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender. The alternative circumstance of relationship shall be taken into consideration when the offended party in the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

[57] *People v. Montinola*, 567 Phil. 387 (2008).

[58] *People v. Gaduyon*, 720 Phil. 750 (2013).

[59] *People v. Bacus*, 767 Phil. 824 (2015).

[60] (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.

[61] *Quimvel v. People*, G.R. No. 214497, April 18, 2017.

[62] (f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

[63] *People v. Ladra*, G.R. No. 221443, July 17, 2017.

[64] See *People v. Montinola*, *supra*.

[65] *People v. Caoili*, *supra* note 37.

[66] Article XII, Section 31. Common Penal Provisions. - 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. x x x

[67] (f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

[68] *People v. Bacus*, *supra*.

[69] *People v. Jugueta*, *supra* note 32.

[70] *People v. Suedad*, G.R. No. 211026, June 8, 2016.

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