

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RUBEN
“ROBIN” BONGBONGA Y NALOS, ACCUSED-APPELLANT.**

G.R. No. 214771. August 09, 2017

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CAGUIOA, J:

This is an Appeal[1] filed under Section 13(c), Rule 124 of the Rules of Court from the Decision[2] dated February 26, 2013 (questioned Decision) of the Court of Appeals, Twelfth Division (CA), in CA-G.R. CR HC No. 04851, which affirmed the Judgment[3] dated July 12, 2010 of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 49 (RTC), in Criminal Case Nos. U-11324, U-11325, and U-11326, convicting accused-appellant Ruben N. Bongbonga (Ruben) for the crimes charged therein.

The Facts

Three (3) separate Informations were filed in the RTC, charging Ruben with two (2) counts of Rape and one (1) count of Acts of Lasciviousness, as follows:

CRIMINAL CASE NO. U-11324

That on or about April 26, 2000 at Brgy. [XXX], Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA],[4] a minor, 11 years and 11 months of age[5] against her will and without her consent to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659.[6]

CRIMINAL CASE NO. U-11325

That on or about May 29, 2000 at Brgy. [XXX], Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA], a minor, 12 years of age against her will and without her consent to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659.[7]

CRIMINAL CASE NO. U-11326

That on or about October 16, 2000 at Brgy. [XXX], Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation with lewd design, did then and there willfully, unlawfully and feloniously perform lascivious conduct upon [AAA], minor, 12 years of age, by kissing her lips, massaging her private parts against her will and without her consent, to the damage and prejudice of [AAA].

CONTRARY to Article 336, Revised Penal Code, in relation to Sec. 5, par. b, R.A. 7610.[8]

As summarized by the CA in the questioned Decision, the facts are as follows:

AAA, a minor of about 16 years of age at the time she testified on February 4, 2003, declared that on April 26, 2000, while she was seated in a chair reading a pocketbook in the yard of their house, appellant came. Since no one was at home except for the two of them, he carried her inside the house up to the second floor where he laid her down the bamboo floor. After removing his clothes, appellant then removed the shirt, pajamas, panty and bra of the victim. She wanted to shout, but the accused wielded a "balisong". The appellant then went on top of AAA and forcibly had carnal knowledge with her and mashed her breast. AAA tried to kick appellant but he was too strong for her. After the ordeal, appellant warned AAA not to tell anyone. AAA did not tell anyone out of fear of appellant.

The second incident took place on May 29, 2000. While AAA was playing with her siblings, BBB, CCC, and appellant's daughter Ruby Ann and niece Julie Ann Bongbonga, in the yard of their house, appellant arrived thereat. While playing, appellant called AAA and told her they were going to his mother Crising Bongbonga's house some 200 meters away. Appellant allowed AAA to watch "Eat Bulaga" in their living room for about an hour. Thereafter, appellant brought AAA inside one of the bedrooms and locked the door. Armed with a "balisong", appellant again had carnal knowledge of AAA. When appellant was finished, he stood and dressed up. AAA put her clothes on and was told by appellant not to tell her parents about what happened between them. Thereafter, they left the premises. AAA did not tell her parents what happened because she was afraid that Ruben might kill her.

The third incident was on October 16, 2000, when AAA, BBB, CCC and their other playmates, went to the river to go swimming. While the group was playing in the water, appellant arrived. Thereafter, AAA's group went home. After doing some household chores, AAA and her siblings went to the sugar cane field to gather sugar cane for eating. Appellant followed the group to the sugar cane field. The group went home while AAA stayed behind because she was told by the appellant "May gagawin tayo." Appellant carried AAA to the middle of the field, undressed her and laid her down. Appellant undressed himself, went on top of AAA, kissed her lips and for the third time, had carnal knowledge with the victim. After such incident, AAA was again warned by the appellant not to tell her parents. However, this time AAA told her parents about the incident and her parents got mad and whipped her.[9]

Thereafter, a medical examination conducted on AAA revealed deep healed lacerations in AAA's genitalia, which allegedly could have been caused by strenuous activities, the insertion of a foreign body (e.g., a hardened penis), or a viral disease.[10]

Pleading his innocence, Ruben denied the accusations against him on the claim that he and AAA were live-in partners and that their sexual encounters were consensual.[11] Ruben further claimed that the charges against him were filed at the instance of AAA's Aunt, possibly due to feelings of disapproval as Ruben was still married to another woman.[12] Ruben's defense was corroborated by his daughter, Ruby Ann, during her testimony before the RTC.[13]

Upon arraignment, Ruben entered separate pleas of "not guilty" to the separate Informations.[14] Trial on the merits thereafter ensued.[15]

Ruling of the RTC

On July 12, 2010, the RTC rendered a Judgment of even date, finding Ruben guilty beyond reasonable doubt of the crimes charged. The fallo of the said Judgment reads:

WHEREFORE, this Court finds the accused RUBEN "ROBIN" BONGBONGA Y NALOS GUILTY beyond reasonable doubt of Rape (2 counts) and Acts of Lasciviousness.

IN CRIMINAL CASE NO. U-11324

(1)

Accused is sentenced to suffer the penalty of reclusion perpetua;

(2)

He is ordered to pay the offended party civil indemnity of Fifty Thousand Pesos (P50,000.00) and moral damages of Fifty Thousand Pesos (P50,000.00);

IN CRIMINAL CASE NO. U-11325

(1)

Accused is sentenced to suffer the penalty of reclusion perpetua;

(2)

He is ordered to pay the offended party civil indemnity of Fifty Thousand Pesos (P50,000.00) and moral damages of Fifty Thousand Pesos (P50,000.00);

IN CRIMINAL CASE NO. U-11326

(1)

Accused is sentenced to suffer the indeterminate penalty of imprisonment of four (4) months and one (1) day of arresto mayor as minimum up to four (4) years and two (2) months of prision correccional as maximum;

(2)

He is ordered to pay the offended party moral damages of Twenty Thousand Pesos (P20,000.00).

Accused is ordered committed to the New Bilibid Prison, Muntinlupa City without unnecessary delay.

NO COSTS.

SO ORDERED.[16]

Ruben then appealed to the CA via Notice of Appeal dated August 26, 2010.[17] Both parties accordingly filed their respective Briefs dated October 5, 2011[18] and February 8, 2012.[19]

Ruling of the CA

On February 26, 2013, the CA issued the questioned Decision of even date, giving credence to the positive and specific testimony of AAA as against Ruben's claims.

In this regard, it was observed by the CA that although the evidence on record indicates that Ruben had carnal knowledge of AAA on the third occasion in October 2000, contrary to AAA's Sinumpaang Salaysay dated January 16, 2001 which only described lascivious conduct by Ruben,[20] the fact of the matter is that the Information for Criminal Case No. U-11326 only charged Ruben with Acts of Lasciviousness.[21] Accordingly, the CA could only convict Ruben for the crime of Acts of Lasciviousness:

However, We cannot impose the penalty of rape upon appellant on the third incident that transpired on October 16, 2000 because the Information only spoke of the crime of acts of lasciviousness. It is a basic constitutional right of the accused to be informed of the nature and cause of accusation against him. It would be a denial of appellant's constitutional right to due process if he was charged with acts of lasciviousness but subsequent proof suggested rape. Nevertheless, the prosecution established that appellant was motivated by lewd design on October 16, 2000 when after AAA's companions left, he brought AAA in the middle of the sugarcane field and

thereafter kissed AAA and touched her private parts.[22]

In affirming the findings of the RTC, the CA modified the award of damages, to wit:

WHEREFORE, premises considered, accused-appellant Ruben Bongbonga's APPEAL is hereby DENIED. Hence, the Decision dated July 12, 2010 for two counts of RAPE and ACTS OF LASCIVIOUSNESS is hereby AFFIRMED with modification insofar as the amount of civil indemnity which is hereby increased to Php75,000.00 and moral damages to Php75,000.00 for each count of rape, plus Php30,000.00 as exemplary damages. Concerning the award of moral damages for acts of lasciviousness, it is hereby increased to Php30,000.00.

SO ORDERED.[23]

Thereafter, Ruben lodged the instant Appeal before the Court via Notice of Appeal dated March 6, 2013.[24] In a Resolution dated January 26, 2015, the Court notified the parties of their option to file supplemental briefs.[25] The parties subsequently filed Manifestations in lieu of supplemental briefs respectively dated April 6, 2015[26] and September 8, 2015.[27]

Issue

For our resolution is the issue of whether the CA erred in affirming the conviction of Ruben for two (2) counts of Rape and one (1) count of Acts of Lasciviousness.

The Court's Ruling

Ruben assigns the following errors on the part of the RTC, as upheld by the CA: (i) the RTC gravely erred in giving weight and credence to the private complainant's testimony, and (ii) the RTC gravely erred in finding him guilty beyond reasonable doubt of the crimes charged.[28] In particular, Ruben claimed that the alleged incidents of rape were consensual as they were "live- in partners." [29] Ruben further discredits AAA's testimony by pointing out her "unnatural behavior" during trial, i.e., that she was hesitant in giving her answers and seemed indecisive in her narration of details relating to the incidents.[30]

The Court is not convinced.

It is settled that in assessing the credibility of a witness, the findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the deportment of the witness while undergoing the rigors of examination.[31] Hence, it is a settled rule that appellate courts will not overturn the factual findings of the trial court unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case.[32] Such rule finds an even more stringent application where the findings of the RTC are sustained by the CA, as in the case at bench.[33]

In this case, Ruben failed to show any misappreciation by the CA of the facts or circumstances so as to warrant a reversal of the questioned Decision. In the same vein, Ruben's arguments were already considered and thoroughly addressed by the courts below.

As correctly observed by the CA, Ruben's flimsy defense of consensual sexual congress pales in comparison to the testimony of AAA, which was delivered in a clear and straightforward manner:

On the basis of the record of this case, We can hardly agree with appellant's belief that there was cogent reason to deviate from the findings of the lower court that appellant had carnal knowledge with AAA. The testimony of AAA was clear, straightforward and consistent in her recollection of the details of the defloration. She positively identified the appellant and she vividly recounted the three incidents of sexual assault she suffered in April, May and October of 2000 and these declarations were corroborated by the findings of Dr. Ramilo. The

doctor examined the victim and found deep healed lacerations in AAA's hymen which was caused by forcibly inserting a foreign body. When the consistent and forthright testimony of a rape victim blended (sic) with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.

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AAA categorically declared that she and appellant were not lovers prior to the three incidents that happened on April 26, May 29, and October 16, 2000, and based on the testimony of both the prosecution and defense, they cohabited after the third incident of alleged rape in October 2000. Moreover, out of fear and intimidation employed upon AAA by her father, she was forced to live with appellant against her will. Evidently, the cohabitation was dictated upon the victim out of fear and not free consent and even if they cohabited after the incidents, it will not negate the fact that AAA was raped by appellant. "Definitely, a man cannot demand sexual gratification from a fiancée and worse, employ violence upon her on the pretext of love. Love is not a license for lust." [34] (Emphasis supplied)

At the outset, it should be emphasized that the Court has consistently disfavored the "sweetheart theory" defense for being self-serving in nature. [35] Being an affirmative defense, the allegation of a love affair must be substantiated by the accused with convincing proof. [36] It bears noting that Ruben's defense was corroborated only by his daughter, Ruby Ann, [37] which effectively weakened the defense, being supported by a mere relative of the accused. [38] In *People v. Nogpo, Jr.*, [39] the Court held that where nothing supports the sweetheart theory except the testimony of a relative, such defense deserves scant consideration.

On this note, Ruben anchors his claim of consensual sexual congress on the fact of his cohabitation with AAA. [40] However, such claim was already addressed by the CA in the questioned Decision, which affirmed the findings of the RTC, that such cohabitation occurred only after the respective dates of the incidents. [41] Here, such fact of cohabitation, by itself, had no bearing on the prior forcible advances committed by Ruben upon AAA. In fact, contrary to Ruben's assertions, any consent implied from the fact of cohabitation is dispelled by AAA's express declarations that she was forced against her will to live with Ruben out of fear of her father. [42]

To be sure, that a man and a woman are living in the same house is not enough to rule out the bestial act of forced sexual intercourse. Here, the fact of cohabitation is immaterial to the charge of rape as it only took place after the alleged incidents. In *People v. Bautista*, [43] the Court aptly held:

Besides, even if he and the victim were really sweethearts, such a fact would not necessarily establish consent. It has been consistently ruled that "a love affair does not justify rape, for the beloved cannot be sexually violated against her will." The fact that a woman voluntarily goes out on a date with her lover does not give him unbridled license to have sex with her against her will. x x x [44]

Moreover, in the landmark case of *People v. Jumawan*, [45] the Court declared that even a husband has no ownership over his wife's body by reason of marriage, for in assenting to marital union, the wife does not divest herself of her right to exclusive autonomy over her own body. Hence, a married woman can give or withhold her consent to sexual intercourse with her husband and he cannot unlawfully wrestle such consent from her in case of her refusal. [46]

In the same manner, Ruben's defense of consensual intercourse evidenced by cohabitation does not hold water in the absence of compelling evidence contra AAA's unwavering testimony of her defilement. In this respect, we defer to the factual conclusions of the RTC regarding the credibility of the witnesses and their respective testimonies, which were affirmed in toto by the CA.

Proceeding therefrom, the Court finds that the prosecution was able to positively establish the guilt of Ruben for

the crimes as charged beyond reasonable doubt.

Criminal Case Nos. U-11324 and U-11325 for Rape

The gravamen of the crime of Rape is sexual intercourse without consent.[47] In the instant case, that Ruben obtained carnal knowledge of AAA by employing force, threat, and intimidation is fully supported by the testimony of AAA and the medical findings of Dr. Jeanna Ramilo. In both instances, Ruben threatened AAA with a balisong in fulfilling his bestial desires. As previously ruled by the Court:

Suffice it to say that in rape cases, the law does not impose a burden on the private complainant to prove resistance. The degree of force and resistance is relative, depending on the circumstances of each case and on the physical capabilities of each party. It is well settled that the force or violence required in rape cases is relative; when applied, it need not be overpowering or irresistible. When force is an element of the crime of rape, it need not be irresistible; it need but be present, and so long as it brings about the desired result, all consideration of whether it was more or less irresistible is beside the point.[48]

Hence, finding no reason to vacate the findings of the RTC and CA, the Court affirms Ruben's guilt beyond reasonable doubt for the two (2) counts of rape in Criminal Case Nos. U-11324 and U-11325.

Criminal Case No. U-11326 for Acts of Lasciviousness

Anent the charge for Acts of Lasciviousness, the Court affirms the CA's conclusion that subsequent proof of suggested rape is immaterial where the allegations of the Information only describe lascivious conduct.[49] To convict an accused of a higher or more serious offense than that specifically charged in the information on which he is tried (e.g., Rape versus Acts of Lasciviousness) would be an outright violation of his basic rights.[50]

It is well-settled that a conviction for a crime not sufficiently alleged in the Information is proscribed by the fundamental requirement of due process and other rights granted to an accused by the Constitution, particularly the right to be informed of the nature and cause of the accusation against him.[51] In implementing such right, our Rules specifically require that the acts or omissions complained of as constituting the offense, including the qualifying and aggravating circumstances, must be stated in ordinary and concise language and in terms sufficient to enable a person of common understanding to know what offense is being charged and the attendant qualifying and aggravating circumstances present, so that the accused can properly defend himself and the court can pronounce judgment.[52]

In this regard, the Rules authorize the quashal, upon motion of the accused, of an Information that fails to allege the acts constituting the offense.[53] Likewise, the Rules impose restrictions in the amendment of an information to safeguard the rights of the accused. Thus, an information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. However, after the plea and during the trial, only a formal amendment may be made with leave of court and only if it can be done without causing prejudice to the rights of the accused.[54] In the same vein, if it appears at any time before judgment that a mistake has been made in charging the proper offense, the court shall dismiss the original information upon the filing of a new one, provided the accused would not be placed in double jeopardy.[55]

Here, there is no indication in the records that the Prosecution attempted to have the Information in Criminal Case No. U-11326 amended at any stage of the proceedings before the RTC. Upon rendition of the Judgment dated July 12, 2010 of the RTC, amendments to the Information could no longer be made. Accordingly, Ruben can only be convicted for Acts of Lasciviousness as described in the Information, notwithstanding evidence of carnal knowledge during the trial proper.

However, the Court finds that the RTC imposed the incorrect penalty corresponding to the Information in

Criminal Case No. U-11326.

To recall, the RTC sentenced Ruben to suffer the indeterminate penalty of imprisonment of four (4) months and one (1) day of arresto mayor as minimum up to four (4) years and two (2) months of prision correccional as maximum.[56] Based on the foregoing, it appears that the RTC imposed the penalty merely for Acts of Lasciviousness under Article 336 of the Revised Penal Code (RPC), as amended, as opposed to the same crime when committed in relation to Section 5, paragraph b, Article III of Republic Act No. 7610 (R.A. 7610), otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act." The Information reads:

That on or about October 16, 2000 at Brgy. [XXX], Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above- named accused, by means of force and intimidation with lewd design, did then and there willfully, unlawfully and feloniously perform lascivious conduct upon [AAA], minor, 12 years of age, by kissing her lips, mashing her private parts against her will and without her consent, to the damage and prejudice of [AAA].

CONTRARY to Article 336, Revised Penal Code, in relation to Sec.5, par. b, R.A. 7610.[57] (Emphasis supplied)

As it stands, the facts of this case support a conviction for a violation of Article 336 of the RPC, in relation to Section 5(b)[58] of R.A. 7610, as originally described in the Information. The essential elements of Section 5(b) are:

- The accused commits the act of sexual intercourse or lascivious conduct;
- The said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and
- The child, whether male or female, is below 18 years of age.[59]

Undoubtedly, the first and third element are amply supported by the evidence on record - the testimonial evidence sufficiently established that Ruben committed lascivious acts against AAA, who, at the time of the incident, was only 12 years of age.

Meanwhile, anent the second element, the Court's recent ruling in *Quimvel v. People*[60] finds particular relevance in this case. In *Quimvel*, the petitioner challenged the sufficiency of the Information as it did not allege all the elements necessary in committing Acts of Lasciviousness under R.A. 7610. In addition, the petitioner argued that the second element, i.e., that the victim is a child "exploited in prostitution or subject to other sexual abuse" was absent. In denying the petition, the majority of the Court sitting en banc held that the allegations of the Information were sufficient to allow a conviction for violation of Section 5(b). It was ruled that for Acts of Lasciviousness committed under R.A. 7610, the victim need not suffer abuse aside from the act complained of based on the majority's reading of Section 5(b), which defines "children exploited in prostitution and other sexual abuse" as those who "indulge in sexual intercourse or lascivious conduct x x x due to coercion or influence of any adult."

Dissenting from the majority, the ponente herein offered a different interpretation. In a Dissenting Opinion, it was opined that a person can only be convicted of violating Article 336 in relation to Section 5(b) upon allegation and proof of the unique circumstances of the child - that he or she was exploited in prostitution or subjected to other sexual abuse. Stated differently, it is necessary to show that the child is already a child exploited in prostitution or subjected to other sexual abuse at the time the sexual intercourse or lascivious conduct complained of was committed. Hence, the phrase "other sexual abuse" can only mean that the child was previously subjected to sexual abuse other than the crime for which the accused is being charged under Section 5(b). To be sure, such

reading is not novel as it was adopted by Justice Carpio in his Dissenting Opinion in *Olivarez v. Court of Appeals*.^[61]

Admittedly, the second element of Section 5(b) - that the act complained of is performed with a child exploited in prostitution or subjected to other sexual abuse - is present herein. As discussed above, the facts unmistakably establish two prior instances of forced intercourse committed against AAA, which should count for "other sexual abuse" aside from the Acts of Lasciviousness charged in Criminal Case No. U-11326. However, following the position articulated above, absent a specific allegation of the unique circumstances of the child in the Information, Ruben can only be convicted for violation of Article 336 of the RPC and not under Section 5(b) of R.A. 7610. It is with this same animus of due process that Ruben was only held liable for acts of lasciviousness instead of rape despite evidence to the contrary.

Be that as it may, the majority's ruling in *Quimvel* remains binding and requires application in this case. Accordingly, the penalty uniformly imposed by the RTC and the CA is modified to correspond to the penalty imposed by law for violation of Section 5(b), which is reclusion temporal in its medium period to reclusion perpetua. Further, the Court is guided by the following ruling in *Roallos v. People*^[62] in applying the Indeterminate Sentence Law:

For acts of lasciviousness performed on a child under Section 5(b), Article III of R.A. No. 7610, the penalty prescribed is reclusion temporal in its medium period to reclusion perpetua. Notwithstanding that R.A. No. 7610 is a special law, Roallos may enjoy the benefits of the Indeterminate Sentence Law. Applying the Indeterminate Sentence Law, Roallos shall be entitled to a minimum term to be taken within the range of the penalty next lower to that prescribed by R.A. No. 7610. The penalty next lower in degree is prision mayor medium to reclusion temporal minimum, the range of which is from eight (8) years and one (1) day to fourteen (14) years and eight (8) months. On the other hand, the maximum term of the penalty should be taken from the penalty prescribed under Section 5(b), Article III of R.A. No. 7610, which is reclusion temporal in its medium period to reclusion perpetua, the range of which is from fourteen (14) years, eight (8) months and one (1) day to reclusion perpetua. The minimum, medium and maximum term of the same is as follows: minimum — fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months; medium—seventeen (17) years, four (4) months and one (1) day to twenty (20) years; and maximum — reclusion perpetua.

Considering that there are neither aggravating nor mitigating circumstances extant in this case, both the RTC and the CA correctly imposed on Roallos the indeterminate penalty of eight (8) years and one (1) day of prision mayor medium as the minimum term to seventeen (17) years, four (4) months and one (1) day of reclusion temporal as the maximum term. x x x ^[63]

Finally, to conform with recent jurisprudence,^[64] the damages awarded by the CA are hereby modified.

WHEREFORE, in view of the foregoing, the Appeal is DISMISSED for lack of merit and the Decision dated February 26, 2013 of the Court of Appeals in CA-G.R. CR HC No. 04851 is AFFIRMED with MODIFICATION. Accused-appellant Ruben "Robin" Bongbonga y Nalos is hereby found GUILTY beyond reasonable doubt of the crimes of Rape under Article 335 of the Revised Penal Code, as amended, and Acts of Lasciviousness under Article 336 of the same law, in relation to Section 5, paragraph b, Article III of Republic Act No. 7610. For the crime of Acts of Lasciviousness in Criminal Case No. U-11326 the indeterminate penalty of eight (8) years and one (1) day of prision mayor medium as the minimum term to seventeen (17) years, four (4) months and one (1) day of reclusion temporal as the maximum term is hereby imposed.

The amount of damages awarded is likewise increased, ordering accused-appellant to pay the amount of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as

moral damages, and Seventy-Five Thousand Pesos (P75,000.00) as exemplary damages for each count of Rape. In addition to the Thirty Thousand Pesos (P30,000.00) moral damages awarded by the Court of Appeals for the crime of Acts of Lasciviousness, civil indemnity in the amount of Twenty Thousand Pesos (P20,000.00) and Ten Thousand Pesos (P10,000.00) exemplary damages are likewise awarded. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 12-13.

[2] Id. at 2-11. Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Vicente S. E. Veloso and Jane Aurora C. Lantion concurring.

[3] CA rollo, pp. 40-48. Penned by Presiding Judge Efren B. Tienzo.

[4] The victim's name and personal circumstances or any other information tending to establish or compromise her identity as well as those of her immediate family are withheld per *People v. Cabalquinto*, 533 Phil. 703 (2006).

[5] The records show that at the time of her testimony, AAA was sixteen (16) years of age, having been born on May 26, 1986. CA rollo, p. 42.

[6] Id. at 40.

[7] Id. at 40-41.

[8] Id. at 41.

[9] Rollo, pp. 3-5.

[10] Id. at 5.

[11] Id.

[12] Id. at 5-6.

[13] Id. at 6.

[14] CA rollo, p. 41.

[15] Id.

[16] Id. at 47-48.

[17] Id. at 49.

[18] Id. at 63-75.

[19] Id. at 92-110.

[20] Rollo, p. 9.

[21] Id.

- [22] Id. at 9-10.
- [23] Id. at 11.
- [24] Id. at 12-13.
- [25] Id. at 17.
- [26] Id. at 23-25.
- [27] Id. at 29-32.
- [28] CA rollo, p. 70.
- [29] Id. at 71-72.
- [30] Id. at 73.
- [31] See *Corpuz v. People*, 734 Phil. 353, 396 (2014).
- [32] *People v. Gahi*, 727 Phil. 642, 658 (2014).
- [33] Id.
- [34] Rollo, pp. 7-8.
- [35] See *People v. Taperla*, 443 Phil. 400, 407 (2003).
- [36] *People v. Monfero*, 367 Phil. 675, 693 (1999).
- [37] Rollo, p. 6.
- [38] See *People v. Nogpo, Jr.*, 603 Phil. 722, 742 (2009).
- [39] Id.
- [40] CA rollo, p. 72.
- [41] Id. at 47.
- [42] Rollo, p. 8.
- [43] 474 Phil. 531 (2004).
- [44] Id. at 556.
- [45] 733 Phil. 102, 159-160 (2014).
- [46] Id. at 143.
- [47] *People v. Nogpo, Jr.*, supra note 38, at 743.
- [48] Id. at 744.
- [49] Rollo, p. 9.
- [50] *People v. Tamos*, 455 Phil. 844, 861 (2003).
- [51] See *People v. Flores, Jr.*, 442 Phil. 561 (2002).
- [52] *Go v. Bangko Sentral ng Pilipinas*, 619 Phil. 306, 316 (2009).

[53] Id.

[54] RULES OF COURT, Rule 110, Section 14.

[55] Id.

[56] CA rollo, p. 48.

[57] Id. at 41.

[58] SEC. 5. Child Prostitution and Other Sexual Abuse. — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

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(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject 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. (Emphasis supplied)

[59] People v. Abello, 601 Phil. 373, 392 (2009), citing People v. Larin, 357 Phil. 987, 997 (1998).

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

[61] See J. Carpio, Dissenting Opinion, Olivarez v. Court of Appeals, 503 Phil. 421, 442-450 (2005).

[62] 723 Phil. 655 (2013).

[63] Id. at 672.

[64] People v. Jugueta, G.R. No. 202124, April 5, 2016, 788 SCRA 331; People v. Pareja, 724 Phil. 759 (2014).

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