

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XXX ACCUSED-APPELLANT.

G.R. No. 230981. July 15, 2020

Ponente: INTING, J.

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INTING, J.:

The case tells the story of a child snatched from the cradle of innocence by the bestiality of his own step-father whom she fondly called as Papa XXX. The controversy lies in the forthright and positive testimony of the victim regarding the sexual abuse she suffered in the hands of her step-father as against the latter's defense that it is incredible that he would rape the victim, while his own children are in the house.

For the Court's consideration is the appeal[1] of the Decision[2] dated October 27, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01331-MIN which affirmed in toto the Joint Decision[3] dated July 4, 2014 of Branch 22, Regional Trial Court (RTC), xxxxxxxxxxxx finding XXX (accused-appellant) guilty beyond reasonable doubt of the crime of Rape under Article 266-A, in relation to Article 266-B of the Revised Penal Code (RPC), as amended; and for violating Section 5(b) of Republic Act No. (RA) 7610, otherwise known as the "Special Protection of Children against Abuse, Exploitation and Discrimination Act."

The Antecedents

Accused-appellant was indicted in an Information in Criminal Case No. 2011-440[4] for the rape of his step-daughter, AAA committed as follows:

That sometime in the year 2010, and on dates subsequent and prior thereto, at xxxxxxxxxxxx, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, having moral ascendancy over the herein victim, being the common-law husband of her mother, did then and there, willfully, unlawfully and feloniously commit a series of acts of sexual abuse upon one [AAA], a 12-years old minor, by sodomizing her by inserting his penis into said victim's anus, and on several occasions by inserting his penis into her vagina, which acts of said accused debase, degrade and demean the intrinsic worth and dignity of said child, [AAA], as a human being, to the damage and prejudice of said victim.

CONTRARY TO and in violation of Section 5(b) of Republic Act No. 7610 (CHILD ABUSE).[5]

Additionally, in Criminal Case No. 2011-441,[6] accused-appellant was indicted for child abuse, viz.:

That sometime in the month of February, 2011 or prior thereto, at xxxxxxxxxxxx, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force and intimidation and having moral ascendancy over the herein victim, being the common-law husband of her mother, did then and there, willfully, unlawfully and feloniously have carnal knowledge with one [AAA], a 12-year-old minor, against her will and consent, to the damage and prejudice of said victim.

CONTRARY TO and in violation of Article 266-A, in relation to Article 266-B of the Revised Penal Code, as amended by R.A. 8353.[7]

On January 20, 2012, accused-appellant, upon his arraignment, entered his pleas of not guilty to both charges.[8]

The prosecution presented the following as its witnesses: (1) AAA, the victim; (2) Dra. Julieta Sittie Salma A. Masorong (Dr. Masorong); (3) Police Officer I Marie Regie A. Pinonia (PO1 Pinonia); and (4) Psychologist Myrna D. Villanueva (Villanueva).

The prosecution established the following:

AAA was born on May 19, 1998. After the separation of her parents, her mother lived with accused-appellant in xxxxxxxxxxxx, Misamis Oriental. One day, when she was about 12 years old, her mother went out to sell rice cakes, and left her and her half-siblings with the accused-appellant in their house. The accused-appellant then took AAA inside a room, removed her short pants, and went on top of her. Accused-appellant inserted his penis into her vagina and made a push and pull motion. The following day, accused-appellant molested AAA once more by forcing her to suck his penis. AAA did not tell her mother about her ordeal as the accused-appellant threatened to kill her.[9]

Accused-appellant sexually molested AAA anew when she was 13 years old. One time, AAA went to the accused-appellant's room to ask his help regarding her exam when he suddenly forced her to lie on her stomach and lifted her skirt. Accused-appellant removed his own pants and brief, inserted his penis to her anus, and performed a push and pull motion. In yet another incident at the pigpen near their house, accused-appellant called AAA and directed her to sit on his lap. Accused-appellant removed his pants and "picked" her vagina.[10]

One day, when AAA arrived home late after buying salt, the accused-appellant scolded her, punched her, and hit her with a coconut grater. The next morning, AAA jumped out from the window and ran away from home. She came across the barangay captain who brought her to the police station where she executed an affidavit depicting her ordeal in the hands of the accused-appellant. The medical examination conducted by Dr. Masorong showed that the AAA's hymen had old and healed lacerations at five and nine o'clock positions. Meanwhile, Villanueva, a psychologist, found that AAA was suffering from an anxiety disorder and had symptoms of a sexually abused person.[11]

For his part, the accused-appellant denied AAA's allegations. He alleged that prior to the filing of the charges against him, he beat AAA because she stole a wall clock, a battery operated radio, and a sum of money from their neighbors. The neighbors did not file a complaint against her because she was still a minor, but they advised him to discipline her. AAA's mother, BBB, corroborated his testimony. According to BBB, her daughter hated the accused-appellant because he would scold and hit her whenever she steal things. BBB, likewise, clarified that there was no time that AAA was left alone in the house because the accused-appellant's mother, CCC, would always be there to watch her children.[12]

Lastly, CCC testified that in 2010 and 2011, she was living with her son and his family to take care of her grandchildren, including AAA. She did not witness the accused-appellant commit the charges imputed to him.[13]

The Ruling of the RTC

After trial, the RTC found that the prosecution successfully discharged the burden of proof in the two charges. It observed that AAA was clear and steadfast in relating the material points of the incidents. Moreover, the Living Case Report[14] of Dr. Masorong showed that she suffered hymenal lacerations at five and nine o'clock positions.[15] It thus relied on the credible and positive declaration of AAA as against the denial of the accused-appellant. The dispositive portion of the Joint Decision reads:

WHEREFORE, the foregoing premises considered judgment is hereby rendered finding the accused [XXX];

1). GUILTY beyond reasonable doubt of the crime of CHILD ABUSE as defined and penalized under Section 5(b), Article III, Republic Act No. 7610 in F.C. Criminal Case No. 2011-440 and he is hereby sentenced to suffer the indeterminate sentence of Fourteen (14) years, Eight (8) months and One (1) day of reclusion temporal, as minimum, to Seventeen (17) years, Four (4) months and One (1) day of reclusion temporal, as maximum. He is also ordered to pay "AAA" the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity and Fifty Thousand Pesos (P50,000.00) as moral damages. Pursuant to prevailing jurisprudence, the accused is also ordered to pay the amount of Thirty Thousand Pesos (P30,000.00) as exemplary damages.

2). GUILTY beyond reasonable doubt of the crime of rape as defined and penalized under Article 266-A, Par. 1 of the Revised Penal Code in F.C. Criminal Case No. 2011-441 and he is hereby sentenced to suffer the imprisonment of reclusion perpetua, without eligibility for parole. He is also ordered to pay "AAA" P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages.

The accused is likewise ordered to pay "AAA" interest at the legal rate of six percent (6%) per annum in all the amounts of damages awarded, reckoned from the date of finality of this decision until fully paid.

SO ORDERED.[16]

The Ruling of the CA

In the Decision[17] dated October 27, 2016, the CA affirmed the RTC's ruling. It held:

From the foregoing, the elements of rape have been established without iota of doubt. In the case at bar, the appellant had carnal knowledge of the private complainant with the use of force, threat, intimidation and by means of abuse of authority. This was supported by private complainant's testimony, the foregoing affidavit and corroborated by the medical and psychological reports. Her minority was substantiated by her birth certificate showing that she was born on 19 May 1998 and admitted by the defense during the pre-trial conference.

WHEREFORE, the appeal is DENIED. The 4 July 2014 Joint Decision of the Regional Trial Court of Branch 22, xxxxxxxxxxxx in Criminal Cases No. 2011-440 for violation of R.A. No. 7610 and No. 2011-441 for Rape is hereby AFFIRMED.

SO ORDERED.[18]

Before the Court, accused-appellant manifested that he would no longer file a Supplemental Brief as he had exhaustively discussed the arguments for his acquittal in his Appellant's Brief.[19] The Office of the Solicitor General manifested in like manner that the Appellee's Brief filed before the CA already discussed its arguments; hence, there is no necessity to file a Supplemental Brief.[20]

By and large, accused-appellant invoked the same arguments he raised before the CA in assailing his conviction. He alleged, among others, that AAA's version of the facts was highly doubtful insisting that a rapist would do his dastardly act surreptitiously to avoid being caught. Even if lust is no respecter of time and place, he maintained that no father would openly have carnal knowledge with someone in the presence of his children.[21] Accused-appellant averred too that the victim had all the chance to report the alleged sexual abuse to her mother or to the authorities. She was already 12 years old when the purported incident happened and, therefore, she could already report the incident.[22]

The appeal has no merit.

The Ruling of the Court

Rape can be committed in two ways.

Paragraph 1 of Article 266-A of the RPC refers to rape through sexual intercourse, otherwise known as organ rape or penile rape. The central element of this kind of rape is carnal knowledge, which must be proven beyond reasonable doubt.[23] The law states:

Article 266-A. Rape, When and How Committed. — Rape is committed —

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a. Through force, threat or intimidation;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

Paragraph 2 of Section 266-A refers to rape by sexual assault. It is known as instrument or object rape or gender-free rape and must be attended by any of the circumstances enumerated above.[24] Thus:

ART. 266-A. Rape, When and How Committed. — x x x

x x x x

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or oral orifice of another person.

Accused-appellant is guilty of Qualified Rape in Criminal Case No. 2011-441.

In Criminal Case No. 2011-441, accused-appellant must be convicted of Qualified Rape under Article 266-B of the RPC since the Information alleged, and was admitted,[25] that AAA was a 12-year-old minor and that accused-appellant was the live-in partner or the common-law spouse of her mother.[26] The elements of Qualified Rape are as follows: (1) sexual congress; (2) with a woman; (3) done by force, threat, or intimidation and without consent; (4) the victim is under 18 years of age at the time of rape; and (5) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree of the victim, or the common-law spouse of the parent of the victim. The actual force, threat, or intimidation that is an element of rape under Article 266-A, paragraph (1)(a) is no longer required to be present because the moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires.[27]

In Criminal Case No. 2011-441, the prosecution established that accused-appellant had carnal knowledge of AAA employing force and intimidation, and by means of abuse of authority. AAA testified that sometime in February 2011, accused-appellant inserted his penis into her vagina and threatened to kill her' after committing the crime. She narrated her harrowing experience in the hands of her step-father, in this wise:

[PROS. BONOAN: (To: Witness)]

x x x x

Q.

What is the work of your mother BBB?

A.

She is a "puto" vendor.

Q.

How about your step father, what is his work?

A.

He worked in the farm.

Q.

Do you call him Papa or Uncle?

A.

Papa.

x x x x

Q.

You filed a case against [XXX], why is it that you filed a case against him?

A.

Because he abused me.

Q.

Where did it happen?

A.

At our house.

Q.

When you say he abused you, what did he do to you?

RECORDS:

Witness is wiping her eyes and start to sob.

PROS. BONOAN: (To: Witness)

Q.

Did it happen in your house in xxxxxxxxxxxx?

A.

At xxxxxxxxxxxx

Q.

Where was your mother at that time?

A.

She was selling puto.

Q.

Who was left in the house?

A.

The four of us. My two half siblings and stepfather.

Q.

What was your stepfather doing when your mother was selling puto?

A.

He abused me.

Q.

What do you mean he abused you?

RECORDS:

Witness is nodding her head.

PROS. BONOAN: (To: Witness)

Q.

Where did he take you?

A.

In our room.

Q.

Once inside the room, what did he do?

A.

He then abused me by removing my short pants.

Q.

After removing your short pants, what else did he do?

A.

He removed his pants.

Q.

After that what happened?

A.

He went on top of me.

Q.

What did he do when he was on top of you?

A.

He made a push and pull motion.

Q.

Was it painful?

A.

Yes.

Q.

Why?

A.

Because he molested me.

Q.

Did he insert part of his body to your body?

A.

Yes.

Q.

What part [of] his body did he use?

A.

He inserted his penis into my vagina.

Q.

How old are you when the incident happened for the first time?

A.

Twelve years old.

Q.

Was that the only time he inserted his penis into your vagina?

A.

Also on the following day.

Q.

Where did it happen?

A.

In our room.

Q.

Again he did the same thing?

A.

He made me sucked his penis.

Q.

What else did he do to you?

A.

He let me sucked his penis into my mouth.

Q.

What happened after that?

A.

Nothing happened.

Q.

Did you tell your mother?

A.

No.

Q.

Why?

A.

I was afraid to tell my mother because he might kill me.

Q.

Did the Accused threaten you or your mother?

A.

Yes.[28] (Emphasis supplied.)

Faced with such serious accusation, accused-appellant raised the defense of denial and faulted AAA for her failure to report the alleged sexual abuse to her mother or the authorities. He argued that AAA was already 12 years old at the time of the supposed incident and she can decide on her own and report it. What is more, he claimed that AAA harbors ill-feelings towards him for disciplining her for her misdemeanors.

The Court is not persuaded.

First, in resolving rape cases, the primary consideration is almost always given to the credibility of AAA's testimony. When the latter's testimony is credible, it may be the sole basis for the accused person's conviction since, owing to the nature of the offense, in many cases, the only evidence that can be given regarding the matter is the testimony of the offended party, in fact, as in here, a rape victim's testimony is entitled to greater weight when she accuses a close relative of having raped her.[29]

Second, it comes as no surprise that a person accused of serious crime like rape will tend to escape liability by shifting the blame on the victim. Nevertheless, settled is the rule that the accused-appellant's defense of denial cannot overcome the categorical testimony of the victim. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility.[30] The victim's conduct after the sexual molestation and her inability to report the incident are also not enough to discredit her. Victims of a crime as heinous as rape, cannot be expected to act within reason or in accordance with society's expectations. It is unfair and unreasonable to demand a standard, of rational reaction to an irrational experience, especially from a 12-year-old victim.[31] The CA correctly observed:

We are likewise not persuaded with the appellant's allegation that had he sexually abused and raped the private complainant, she would have reported the incident to her mother or to the authorities and would have distanced herself from him instead of seeking his help regarding her studies.

Behavioral psychology teaches us that, even among adults, people react to similar situations differently, and there is no standard form of human behavioral response when one is confronted with a startling or frightful experience. Let it be underscored that these cases involve victims of tender years, and with their simple, unsophisticated minds, they must not have fully understood and realized at first the repercussions of the contemptible nature of the acts committed against them. This Court has repeatedly stated that no standard form of behavior could be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult.

Considering that private complainant practically grew up with the appellant and even called him "Papa XXX" since she was about six (6) years old. We find it difficult to believe that she (barely 13 years old when she executed her Affidavit and 15 years old when she testified in court) would fabricate a tale of defilement where the perpetrator is her step-father and let the public know about it unless she was motivated by a genuine desire to obtain redress for the wrong done to her. Granting that she had ill-will against her step-father for having received beatings from him, the said reason is not enough to accuse him of an offense so grave as charged, if untrue.[32] (Emphasis supplied.)

Third, the result of the Living Case Report[33] of AAA shows the presence of hymenal lacerations at five and nine o'clock positions, which is consistent with the statement that accused-appellant inserted his penis into her vagina. At this point, a young girl's revelation that she had been raped coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity cannot be so easily dismissed as a mere concoction.[34]

Finally, for committing the crime of qualified rape, the accused-appellant should have been meted out the death penalty were it not for the proscription in RA 9346.[35] In lieu of the death penalty, he is sentenced to suffer the penalty of reclusion perpetua without eligibility of parole.[36] The awards of civil indemnity, moral damages, and exemplary damages are proper, but the amounts must be modified to P100,000.00 each in line with prevailing jurisprudence.[37]

Accused-appellant is guilty of Lascivious Conduct in Criminal Case No. 2011-440.

In the same manner, in Criminal Case No. 2011-440, the Court does not find any reason to reverse the factual findings of the RTC as affirmed by the CA.

The elements of sexual abuse under Section 5, Article III of RA 7610 are: (1) the accused commits the 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, whether male or female, is below 18 years of age.[38]

"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 pubic area of a person. On the other hand, "Sexual abuse" includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children.[39]

In the present case, the evidence established the accused-appellant's insertion of his penis into AAA's anus and later his finger into her vagina. As duly found by the RTC, AAA was able to recall in a clear and straightforward manner how accused-appellant sexually abused her, thus:

[PROS. BONOAN: (To: Witness)]

Q.

Was that the only time he abused you or there were other times that he abused you?

A.

When I was thirteen.

Q.

Where did it happen, when you said that he abused you?

A.

Still in our room.

Q.

In that house in xxxxxxxxxxxx?

A.

Yes.

Q.

And your mother was not there?

A.

Yes.

Q.

What did he do to you?

A.

I came from the bathroom and I went upstairs and asked Papa [XXX] to help me with my examination.

Q.

After asking him to help you in your examination, what happened next?

A.

He let me lie on my stomach and lift my skirt.

Q.

After lifting your skirt, what happened next?

A.

He removed his short pants.

Q.

What happened after that?

A.

Then he removed his brief and went on top of me.

Q.

You were facing each other?

A.

No.

Q.

The Accused was at your back?

A.

Yes.

Q.

What did he do?

A.

He made a push and pull motion.

Q.

What happened after that?

A.

Then he let me go to school.

Q.

When he was on your back, did he insert part of his body?

A.

Yes.

Q.

What is that?

A.

His penis.

Q.

Where did he insert it?

A.

Into my anus.

Q.

You said that you are thirteen years old at that time. Was there another incident that happened to you?

A.

Yes.

Q.

Where did it happen?

A.

At the pig pen.

Q.

Where is that pig pen located?

A.

Near our house.

Q.

What did he do to you?

A.

I just came from washing the dishes.

Q.

What happened after you washed the dishes?

A.

I sat near the coop.

Q.

What happened after that?

A.

He called me and let me sat on his lap.

Q.

What happened after that?

A.

He removed his short pants and he picked me.

Q.

What part of your body did he pick?

A.

My vagina.[40] (Emphasis supplied.)

From the foregoing, it is readily apparent that accused-appellant sexually abused his own step-daughter by lifting her skirt, pulling down his own shorts and brief, inserting his penis into her anus, and then "picking" her vagina. Notably, AAA was a minor, being only 13 years old at that time. During her testimony, she revealed that she did not disclose her ordeal to anyone, including her mother, because she was afraid of accused-appellant who was then making threats on her. Indubitably, accused-appellant succeeded in coercing AAA to engage in lascivious conduct. Not only did he scare her with his threats should she disclose his bestiality, he even used his moral ascendancy as her step-father. As mentioned earlier, it is doctrinal that moral influence or ascendancy takes the place of violence and intimidation.[41]

Withal, a change in the nomenclature of the offense charged against accused-appellant is in order. In *People v. Tulagan*[42] (Tulagan), the Court prescribes the guidelines in the proper designation or nomenclature of acts constituting sexual assault and the penalty to be imposed depending on the age of the victim, viz.:

Considering the development of the crime of sexual assault from a mere "crime against chastity" in the form of acts of lasciviousness to a "crime against persons" akin to rape, as well as the rulings in *Dimakuta* and *Caoili*, We hold that if the acts constituting sexual assault are committed against a victim under 12 years of age or is demented, the nomenclature of the offense should now be "Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5 (b) of R.A. No. 7610" and no longer "Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of R.A. No. 7610," because sexual assault as a form of acts of lasciviousness is no longer covered by Article 336 but by Article 266-A (2) of the RPC, as amended by R.A. No. 8353. Nevertheless, the imposable penalty is still reclusion temporal in its medium period, and not prision mayor.

Whereas if the victim is 12 years old and under 18 years old, or 18 years old and above under special circumstances, the nomenclature of the crime should be "Lascivious Conduct under Section 5 (b) of R.A. No. 7610" with the imposable penalty of reclusion temporal in its medium period to reclusion perpetua, but it should not make any reference to the provisions of the RPC. It is only when the victim of the sexual assault is 18 years old and above, and not demented, that the crime should be called as "Sexual Assault under paragraph 2, Article 266-A of the RPC" with the imposable penalty of prision mayor.[43] (Emphasis supplied; italics in the original.)

In line with the pronouncement in *Tulagan*, the rulings of the lower courts should be modified by convicting accused-appellant of the offense of Lascivious Conduct under Section 5(b) of RA 7610. The penalty to be imposed for Lascivious Conduct is reclusion temporal in its medium period to reclusion perpetua. The prosecution established herein AAA's minority and her relationship with accused-appellant. The proper penalty to be imposed is the maximum which, in this case, is reclusion perpetua, there being no mitigating circumstance to offset the

aggravating circumstance present.[44] There is no need also to qualify the sentence to reclusion perpetua with the phrase "without eligibility for parole" since under [Administrative Matter No. 15-08-02-SC, in cases where the death penalty is not warranted, it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole.[45]

Likewise, Section 31(f) of RA 7610[46] imposes a fine upon the perpetrator, which jurisprudence pegs in the amount of P15,000.00.[47] As to the damages, accused-appellant is ordered to pay the victim civil indemnity, moral damages, and exemplary damages in the amount of P75,000.00 each.

WHEREFORE, the appeal is DISMISSED. The Decision dated October 27, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 01331-MIN is AFFIRMED with MODIFICATIONS.

1).

In Criminal Case No. 2011-440, accused-appellant XXX is guilty beyond reasonable doubt of the offense of LASCIVIOUS CONDUCT under Section 5(b) of Republic Act No. 7610 and is sentenced to suffer the penalty of reclusion perpetua and to pay a FINE of P15,000.00. He is further required to PAY AAA the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages.

2).

In Criminal Case No. 2011-441, accused-appellant XXX is guilty beyond reasonable doubt of the crime of QUALIFIED RAPE under Article 266-A, in relation to Article 266-B, of the Revised Penal Code and is sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole, and is ordered to PAY AAA the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages.

All monetary awards are subject to an interest of 6% per annum awarded from the date of finality of this judgment until fully paid.

SO ORDERED.

Perlas-Bernabe, S.A.J., (Chairperson), Hernando, Delos Santos, and Gaerlan,[**] JJ., concur.

[*] The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes;" RA 9262, "An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes;" Section 40 of Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

[**] Designated as additional member per Special Order No. 2780 dated May 11, 2020.

[1] See Notice of Appeal dated November 11, 2016, rollo, pp. 17-18.

[2] *Id.* at 3-16; penned by Associate Justice Oscar V. Badelles with Associate Justices Romulo V. Borja and Ronaldo B. Martin, concurring.

- [3] CA rollo, pp. 35-45; penned by Presiding Judge Richard D. Mordeno.
- [4] Records, pp. 3-4.
- [5] Id. at 3.
- [6] Id. at 31.
- [7] Id.
- [8] See Order dated January 20, 2012, id. at 55.
- [9] Rollo, p. 5.
- [10] Id.
- [11] Id. at 5-6.
- [12] Id. at 6.
- [13] Id.
- [14] Exhibit "E," Index of Exhibits, p. 9.
- [15] Exhibit "E-4," Index of Exhibits, id.
- [16] CA rollo, pp. 44-45.
- [17] Rollo, pp. 3-16.
- [18] Id. at 15.
- [19] Id. at 28-29.
- [20] Id. at 23-25.
- [21] CA rollo, p. 31.
- [22] Id.
- [23] *People v. Moya*, G.R. No. 228260, June 10, 2019, citing *People v. Soria*, 698 Phil. 676, 689 (2012).
- [24] Id., citing *People v. Abulon*, 557 Phil. 428, 454 (2007) and *People v. Soria*, 698 Phil. 676, 687 (2012).
- [25] See Pre-Trial Order dated February 6, 2012, records, pp. 62-64.
- [26] *People v. Vañas*, G.R. No. 225511, March 20, 2019.
- [27] *People v. CCC*, G.R. No. 228822, June 19, 2019, citing *People v. Palanay*, 805 Phil. 116, 123 (2017) and *People v. Pacayra*, 810 Phil. 275, 288 (2017).
- [28] TSN, May 3, 2012, pp. 7-9.
- [29] *People v. BBB*, G.R. No. 232071, July 10, 2019, citing *People v. Galagati*, 788 Phil. 670, 684-685 (2016).
- [30] *People v. Moya*, supra note 23.
- [31] *Pendoy v. Court of Appeals*, G.R. No. 228223, June 10, 2019, citing *People v. Biala*, 773 Phil. 464, 482 (2015).

[32] Rollo, pp. 10-11.

[33] Exhibit "E," Index of Exhibits, p. 9.

[34] *People v. Moya*, supra note 23, citing *People v. Tuballas*, 811 Phil. 201, 217 (2017).

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

[36] *People v. Vañas*, supra note 26. Sections 2 and 3 of RA 9346 state:

SECTION 2. In lieu of the death penalty, the following shall be imposed:

(a)

the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b)

the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

SECTION 3. Person convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

[37] *People v. Vañas*, supra note 26, citing *People v. Jugueta*, 783 Phil. 806, 848 (2016).

[38] *People v. Moya*, supra note 23, citing *People v. Villacampa*, G.R. No. 216057, January 8, 2018, 850 SCRA 75, 90-91.

[39] *People v. XXX*, G.R. No. 235662, July 24, 2010, citing Section 32 of RA 7610, Rules and Regulations on the Reporting and Investigation of Child Abuse Cases.

[40] TSN, May 3, 2012. pp. 9-11.

[41] *People v. BBB*, G.R. No. 232071, July 10, 2019.

[42] G.R. No. 227363, March 12, 2019.

[43] *Id.* Citation omitted.

[44] *People v. Moya*, supra note 23. See also *People v. XXX*, G.R. No. 242207, July 3, 2019.

[45] *Id.*

[46] SECTION 31. Common Penal Provisions. — x x x x

(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.

[47] *People v. XXX*, supra note 39, citing *People v. Caoili*, 815 Phil. 839, 896-897 (2017).

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