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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BILLY JOE BELETA y G.R. No. 256849
CAYUNDA,

Petitioner, Present:

PERLAS-BERNABE,* S.A.J.,
Chairperson,
HERNANDO,**
Acting Chairperson,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

- versus -

PEOPLE OF THE
PHILIPPINES,

Respondent.

Promulgated:

NOV 15 2021

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RESOLUTION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ assailing the Decision² dated January 27, 2020 and the Resolution³ dated January 26, 2021 of the Court of Appeals (CA) in CA-G.R. CEB CR No. 03051 which affirmed with modification the Judgment dated July 31, 2017 of Branch 10, Regional Trial Court (RTC), Abuyog, Leyte in Criminal Case No. 3336 convicting Billy Joe Beleta y Cayunda (petitioner) for the offense of Lascivious Conduct under Section 5(b), Article III of Republic Act No. (RA) 7610, or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act."⁴

* On official leave.

** Per Special Order No. 2855 dated November 10, 2021.

¹ *Rollo*, pp. 11-27.

² *Id.* at 61-74; penned by Associate Justice Dorothy P. Montejo-Gonzaga with Associate Justices Pamela Ann Abella Maxino and Carlito B. Calpatura, concurring.

³ *Id.* at 85-87; penned by Associate Justice Dorothy P. Montejo-Gonzaga with Associate Justices Pamela Ann Abella Maxino and Lorenza R. Bordios, concurring

⁴ Approved on June 17, 1992.

The Antecedents

Petitioner was charged with Lascivious Conduct under Section 5(b), Article III of RA 7610 before the RTC under the following Information:

“That on or about [the] 7th day of August 2013 in the Municipality of ██████, Province of Leyte, Philippines and within the jurisdiction of the Honorable Court, the said accused, motivated with lewdness, with force and coercion[,] did then and there willfully, unlawfully and feloniously exploited and sexually abused 14[-]year old [AAA]⁵ by doing some lascivious conduct unto the latter, holding her private parts against her will[,] which sexual abuses is [*sic*] prejudicial to the development and best interest of [AAA].

CONTRARY TO LAW.”⁶

When arraigned, petitioner pleaded not guilty to the offense charged against him.⁷

Trial ensued.

Version of the Prosecution

The prosecution presented private complainant AAA as its primary witness.

AAA testified that on August 7, 2013, at around 2:30 a.m., she was asleep in her room next to CCC, her sister, when she was suddenly awakened by someone caressing her breasts and vagina. She recalled

⁵ The identity of the victim or any information to establish or compromise their identity, as well as those of their 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, Providing Penalties for its Violation 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.

⁶ *Rollo*, p. 62.

⁷ *Id.*

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that she pretended to be asleep because she was frightened; but when she slightly opened her eyes, she saw petitioner sitting on a chest situated beside her. She recognized petitioner because he was her neighbor and his face was clearly visible due to the light bulb in the room.⁸

Moreover, AAA narrated that petitioner was masturbating while he continued touching her breasts and vagina by inserting his hand inside her shirt and short pants. When she could no longer bear petitioner's lewd acts, she slapped his hand away. In response, petitioner poked her with a knife, told her not to shout, and threatened her that he would kill her and her entire family. Afterwards, petitioner tried to pull down AAA's short pants, but he was unsuccessful because CCC woke up after AAA pinched her several times. AAA claimed that petitioner then immediately ran outside through the kitchen door.⁹

Dr. Benjamin Rodrigo Go (Dr. Go), another prosecution witness, testified that after a psychiatric evaluation, he diagnosed AAA to be suffering from an acute disorder due to a traumatic event that she experienced. Thus, she was hospitalized for 19 days at the ██████████ Hospital in ██████████, Leyte. He further explained that AAA's disorder had negatively affected her daily living, her school performance, and her relationship with other people.¹⁰

To prove that AAA was only a minor at the time of the incident, the prosecution presented her Original Certificate of Live Birth, which showed that AAA was born on May 21, 1999 and was only 14 years old when the sexual abuse occurred on August 7, 2013.¹¹

Version of the Defense

For his part, petitioner raised the defenses of denial and alibi, viz.:

PETITIONER BILLY JOE BELETA testified that he knew "AAA" because the latter is the granddaughter of his foster parent. At around 2:30 o'clock in the early morning of August 7, 2013, he was in ██████████, Leyte in a videoke bar with a certain Gerry Redublado and a female companion, Tess. He was in that videoke bar

⁸ *Id.* at 62-63.

⁹ *Id.* at 63.

¹⁰ *Id.* at 15 and 64.

¹¹ *Id.* at 68.

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since 6:00 o'clock in the evening of August 6, 2013 drinking tuba and singing. He learned that he was accused of this case on August 10, 2013. Upon learning of the accusation against him, he was surprised and could not think of any reason why he was accused by AAA.¹²

Ruling of the RTC

In its Judgment dated July 31, 2017, the RTC convicted petitioner of the offense charged and sentenced him to suffer the indeterminate penalty of imprisonment for a period of fourteen (14) years and eight (8) months, as minimum, to twenty (20) years, as maximum. It likewise ordered petitioner to pay AAA the amounts of ₱20,000.00 as civil indemnity, ₱15,000.00 as moral damages, and ₱15,000.00 as fine, all subject to legal interest at the rate of 6% *per annum* from the finality of the Judgment until fully paid.¹³

The RTC held that the prosecution had sufficiently established petitioner's guilt beyond reasonable doubt as all the elements of Lascivious Conduct under Section 5(b), Article III of RA 7610 were present in the case. In so ruling, the RTC gave more weight to AAA's narration of events which it deemed to be credible, sincere, and candid; and rejected petitioner's unsubstantiated defenses of denial and alibi.¹⁴

Ruling of the CA

On appeal, the CA affirmed the Judgment of the RTC with modification as to the award of damages in that it increased the amounts of civil indemnity and moral damages to ₱50,000.00 each.¹⁵

Like the RTC, the CA found AAA's testimony to be candid, credible, and convincing in her categorical account of how petitioner committed lascivious conduct against her person.¹⁶ It noted that AAA's narrative was more believable than petitioner's denial and alibi in view of the testimony of Dr. Go regarding his psychiatric evaluation of AAA, who, after the incident, suffered from an acute disorder due to a

¹² *Id.* at 15.

¹³ *Id.* at 65.

¹⁴ *Id.* at 65-66.

¹⁵ *Id.* at 73.

¹⁶ *Id.* at 68-69.

traumatic event that she experienced which resulted in her hospitalization for 19 days.¹⁷

Petitioner moved for reconsideration,¹⁸ but the CA denied the motion in the assailed Resolution for lack of merit.¹⁹

On March 25, 2021, petitioner filed a Motion for Extension of Time to File Petition for Review on *Certiorari*²⁰ (Motion for Extension) for a period of 30 days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

Subsequently, on April 26, 2021, petitioner filed the present Petition for Review on *Certiorari*.

Issue

The issue in the case is whether petitioner's guilt for the offense of Lascivious Conduct under Section 5(b), Article III of RA 7610 was proven beyond reasonable doubt.

The Court's Ruling

The Court *grants* the Motion for Extension, but *denies* the instant petition for failure of petitioner to sufficiently show any reversible error in the assailed CA Decision and Resolution as to warrant the exercise of its discretionary appellate jurisdiction.

At the outset, it is important to point out that the issue as to *petitioner's guilt beyond reasonable doubt of Lascivious Conduct* is clearly factual in nature. Consequently, this issue cannot be entertained in a Rule 45 petition where the Court's jurisdiction is limited to reviewing and revising *errors of law* that might have been committed by the lower courts.²¹ On this ground alone, the petition should be dismissed

¹⁷ *Id.* at 70-71.

¹⁸ See Motion for Reconsideration dated March 5, 2020, *id.* at 75-82.

¹⁹ *Id.* at 86.

²⁰ *Id.* at 3-6.

²¹ *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 770 (2013), citing *Madrigal v. Court of Appeals*, 456 Phil. 149, 156-157 (2005), further citing *Bernardo v. Court of Appeals*, 290 Phil. 649, 657 (1992).

*in the absence of any exceptional circumstance*²² that would warrant the Court's review of factual questions that have already been settled by the lower courts.

The Court also notes petitioner's failure to pay the required legal fees in the amount of ₱1,000.00 representing the Sheriff's Trust Fund which is another ground for the denial of the petition.²³ It is settled that the full payment of docket and other legal fees is a *mandatory and jurisdictional* requirement to perfect an appeal.²⁴ However, the Court deems it just and fair to *relax* this rule in the present case considering: *first*, the actual delivery of a postal money order, though it turned out to be stale, signifying petitioner's intention to pay the legal fees;²⁵ and *second*, the gravity of the offense charged against petitioner and the penalties imposed upon him.²⁶

Still, after a careful study of the case, the Court finds no cogent reason to overturn the findings of the RTC, as upheld by the CA, because it was not shown that the lower courts had overlooked, misunderstood, or misappreciated facts or circumstances of weight that could alter the result of the case.²⁷

The elements of sexual abuse under Section 5(b), Article III of RA 7610 are as follows:

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.
3. The child, whether male or female, is below 18 years of age.²⁸
(Italics supplied.)

As the CA aptly ruled, the prosecution sufficiently established that petitioner had committed lascivious conduct against AAA, who was only 14 years old at the time of the incident, when he caressed her breasts and

²² *New City Builders, Inc. v. NLRC*, 499 Phil. 207, 212-213 (2005).

²³ Per the Judicial Record Office, the attached Postal Money Order No. 0500111582 was returned to sender for being stale, *rollo*, p. 10.

²⁴ *National Transmission Corp. v. Heirs of Teodulo Ebesa, et al.*, 787 Phil. 594, 603 (2016).

²⁵ See *Spouses Buenaflor v. Court of Appeals*, 400 Phil. 395 (2000).

²⁶ *Id.*

²⁷ *People v. Espino, Jr.*, 577 Phil. 546, 562 (2008).

²⁸ *Robles v. People*, G.R. No. 239820 (Notice), January 12, 2021, citing *Amployo v. People*, 496 Phil. 747, 758 (2005).

vagina through coercion or intimidation by threatening her with a knife.²⁹

The Court also rejects petitioner's contention that AAA's testimony was unbelievable considering the presence of the other occupants in the house when the incident took place³⁰ as well as the "unusual" reaction of AAA who pretended to be asleep and failed to shout for help during her ordeal.³¹

It is settled that the close proximity of other persons to the scene of the rape, or in this case, the lascivious conduct, does *not* render the commission thereof impossible or incredible.³² AAA's failure to shout for help, too, does *not* in any way disprove the commission of the offense.³³ There is, after all, no standard behavior that can be anticipated of a victim of sexual abuse during or after the incident, particularly a child like AAA who cannot be reasonably expected to fully comprehend how an adult in the same situation would react.³⁴

Besides, faced with the weight of the prosecution's evidence, petitioner merely raised the defenses of denial and alibi which are considered as *negative* and *self-serving* evidence.³⁵ These *uncorroborated* defenses, however, simply *cannot* prevail over AAA's clear and credible narration of the incident and her positive identification of petitioner as her abuser.³⁶

The penalty for the offense of Lascivious Conduct under Section 5(b), Article III of RA 7610 is *reclusion temporal* medium to *reclusion perpetua*. Applying the Indeterminate Sentence Law, the proper penalty for Lascivious Conduct is *prision mayor* medium to *reclusion temporal* minimum, as the minimum term, to *reclusion temporal* maximum, as the maximum term, *if* none of the circumstances under Section 31 of RA

²⁹ It is settled that "the phrase 'other sexual abuse' covers not only a child who is abused for profit, but also one who engages in lascivious conduct through the coercion or intimidation by an adult." Moreover, there can be a violation of Section 5(b), Article III of RA 7610 even if the sexual abuse against the child victim was committed only *once*, without a prior sexual offense against him or her. See *Uddin v. People*, G.R. No. 249588, November 23, 2020.

³⁰ *Rollo*, pp. 19-20.

³¹ *Id.* at 21.

³² *People v. Licaros*, G.R. No. 238622, December 7, 2020, citing *People v. Descartin, Jr.*, 810 Phil. 881, 892 (2017).

³³ *Id.*

³⁴ See *People v. Bejim*, 824 Phil. 10 (2018).

³⁵ *People v. Candelario*, G.R. No. 231378 (Notice), June 23, 2021, citing *People v. Cenahonon*, 554 Phil. 415, 430 (2007).

³⁶ *Id.*

7610 are present *and* there are no modifying circumstances attending the commission of the offense.³⁷ Thus, the indeterminate penalty of imprisonment imposed by the lower courts against petitioner for a period of fourteen (14) years and eight (8) months, as minimum, to twenty (20) years, as maximum, is within the range provided by law.

As to the damages, the Court deems it proper to award exemplary damages in the amount of ₱50,000.00, in addition to the awards of civil indemnity and moral damages at ₱50,000.00 each, in accordance with *People v. Tulagan*.³⁸ The Court also affirms the imposition of the fine of ₱15,000.00³⁹ against petitioner pursuant to Section 31(f), Article XII of RA 7610 which provides:

ARTICLE XII
Common Penal Provisions

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.

In *People v. Abadies*,⁴⁰ the Court explained that the above provision “allows the imposition of a fine subject to the discretion of the court, provided that it is to be 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.”⁴¹ The Court further stated that the provision is in accord with Article 39 of the Convention on the Rights of the Child, to which the Philippines became a party on August 21, 1990, which mandates states parties to ensure the physical and psychological recovery and social reintegration of abused and exploited children in an environment which fosters their self-respect and human dignity.⁴²

³⁷ *People v. Nocido*, G.R. No. 240229, June 17, 2020.

³⁸ G.R. No. 227363, March 12, 2019.

³⁹ *People v. ZZZ*, G.R. No. 232500, July 28, 2020.

⁴⁰ 433 Phil. 814 (2002).

⁴¹ *Id.* at 825-826.

⁴² *Id.* at 825.

The Court observes that in several cases where the accused are found guilty under RA 7610, as in the present case, the trial courts impose a fine against the accused without citing the legal provision on which it is based. Although such imposition is sanctioned under Section 31(f), Article XII of RA 7610, the Court takes occasion to remind trial courts that prudence is dictated upon them to explain the basis for imposing the fine, consistent with Section 14, Article VIII of the Constitution which ordains that “[n]o decision shall be rendered by any court without expressing therein *clearly and distinctly* the facts and the *law* on which it is based.” Thus, it is incumbent upon trial courts to state in their judgment that the fine is imposed pursuant to Section 31(f), Article XII of RA 7610 and shall be 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.”

WHEREFORE, the Court resolves to:

- (1) **GRANT** the Motion for Extension of Time to File Petition for Review on *Certiorari* for a period of 30 days from the expiration of the reglementary period within which to file a petition for review on *certiorari*;
- (2) **DENY** the petition for lack of reversible error on the part of the Court of Appeals. The Decision dated January 27, 2020 and the Resolution dated January 26, 2021 in CA-G.R. CEB CR No. 03051 in finding petitioner Billy Joe Beleta y Cayunda guilty beyond reasonable doubt of the offense of Lascivious Conduct under Section 5(b), Article III of Republic Act No. 7610 is **AFFIRMED** with **MODIFICATION** in that, he is sentenced to suffer the indeterminate penalty of imprisonment for a period of fourteen (14) years and eight (8) months, as minimum, to twenty (20) years, as maximum, and ordered to pay AAA civil indemnity, moral damages, and exemplary damages at ₱50,000.00 each, subject to interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid, and a fine in the amount of ₱15,000.00;
- (3) **NOTE WITHOUT ACTION** the Motion to Admit Attached Verification and Certification of Non-Forum Shopping dated May 11, 2021; and

- (4) **DIRECT** petitioner Billy Joe Beleta y Cayunda to pay the Sheriff's Trust Fund in the amount of ₱1,000.00 within 10 days from receipt of this Resolution.

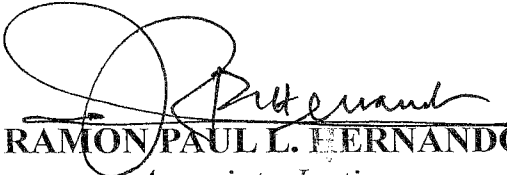
SO ORDERED.




HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

(On official leave)
ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice




SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAG
Associate Justice

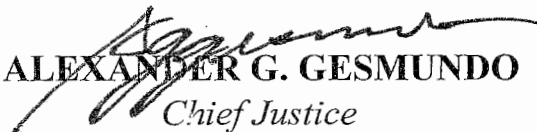
ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice



