THIRD DIVISION

G.R. No. 201147 — PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, ***versus*** **FREDDIE SERNADILLA,** *accused-appellant.*

Promulgated:

September 21, 2022

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CONCURRING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia* that the guilt of accused-appellant Freddie Sernadilla (Sernadilla) was proven beyond reasonable doubt in only one of the three (3) charges.[1]

I write this Concurring Opinion, nevertheless, to laud the *ponencia*'s ruling in upholding the right of the accused to be informed of the cause of the accusation against him. In addition, I also take this opportunity to illustrate how the ruling of the Court in *People v. Tulagan*[2] (*Tulagan*) has caused the unintended confusion resolved by this case.

Brief review of the facts

Sernadilla, a Pastor, was charged with three (3) counts of Rape for having carnal knowledge of AAA,[3] a 14 (or 15)-year-old attender of his church. The accusatory portions of the three Informations are as follows:

Criminal Case No. 3596

> That on February 9, 2006 in Brgy. Sto. Tomas, Maria Aurora, Aurora and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, had carnal knowledge with one [AAA], who was then a sixteen (16) year old barrio

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1 *Ponencia*, p. 13.

2 849 Phil. 197 (2019).

3 The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (R.A.) 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," approved on June 17, 1992; R.A. 9262, "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and 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. (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.)

lass **against her will and consent** thereby effectively prejudicing her development as a child.

CONTRARY TO LAW.[4] (Emphasis and underscoring supplied)

Criminal Case No. 3599

That on October 28, 2005 at Brgy. Baubo, Maria Aurora, Aurora and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully and feloniously, had carnal knowledge with one [AAA], who was then a fifteen (15) year old barrio lass **against her will and consent** thereby effectively prejudicing her development as a child.

CONTRARY TO LAW.[5] (Emphasis and underscoring supplied)

Criminal Case No. 3600

That sometime in October 2004 at Brgy. Wenceslao, Maria Aurora, Aurora and within the jurisdiction of this Honorable Court and inside the premises of the Wenceslao Christian Fellowship, the said accused, who was then the Pastor of the said church, did then and there willfully, unlawfully and feloniously, had carnal knowledge with one [AAA], who was then a fourteen (14) year old barrio lass and **a member of the said church, against the latter's will and consent** thereby effectively prejudicing her development as a child.

CONTRARY TO LAW.[6] (Emphasis and underscoring supplied)

The first rape incident pertained to Criminal Case No. 3600, where AAA testified that one evening in October 2004, she was in the kitchen of the pastoral house which also served as Sernadilla's residence when Sernadilla suddenly turned the lights off and started embracing her. Sernadilla warned her not to shout or he would kill her. He then ordered her to lie down on a wooden bench, removed her shorts and underwear, and had carnal knowledge of her. Sernadilla even threatened AAA that he would harm her if she told anyone about what happened.[7]

The second charge involved the Information in Criminal Case No. 3599, where AAA testified that on October 28, 2005, she was at a waiting shed when Sernadilla came by and offered to bring her home in his tricycle. Instead of bringing her home, however, he brought her to a hut where he had sexual intercourse with her again.[8]

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4 Records, p. 1.
5 Id. at 139.
6 Id. at 38.
7 *Rollo*, p. 4; records p. 69.
8 Id.; id.

The last Information, filed as Criminal Case No. 3596, involved the incident on February 9, 2006, where AAA and her classmates were doing their school project at the house of Sernadilla's father. Soon after, Sernadilla arrived at the said house. When AAA went to the comfort room to urinate, Sernadilla followed her and again sexually abused her by inserting his penis into her vagina.[9]

As his defense for all of the charges, Sernadilla invoked the sweetheart theory and claimed that all the sexual encounters that he and AAA had were consensual.[10]

The Regional Trial Court of Baler, Aurora, Branch 96 (RTC) issued a Joint Decision[11] dated March 28, 2008 convicting Sernadilla of one (1) count of Rape, defined and penalized under Article 266-A(1)[12] of the Revised Penal Code (RPC), in Criminal Case No. 3600 under the first charge, but convicting him of two (2) counts of Child Abuse defined and penalized under Section 5(b),[13] Article III of Republic Act No. (R.A.) 7610 in Criminal Case Nos. 3596 and 3599 under the second and third charges. The variance was due to the factual finding that force and intimidation were proven only in the first charge. For the second and third charges, the RTC found that AAA submitted to Sernadilla's desires because he had been giving her monetary allowances and other material support. Because there was "influence," the RTC convicted Sernadilla for violation of Section 5(b) of R.A. 7610. The RTC added that in cases involving violations of R.A. 7610, consent is immaterial, so it proceeded to convict Sernadilla. The Court of Appeals (CA) merely affirmed the RTC's rulings in a Decision[14] dated June 17, 2011 in CA-G.R. CR No. 31721.

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9 Id. at 4- 5; records, p. 541.

10 Records, pp. 544-545.

11 Id. at 537-558. Penned by Presiding Judge Corazon D. Soluren.

12 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 otherwise unconscious;
   c) By means of fraudulent machination or grave abuse of authority; and
   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.

x x x x

13 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:

x x x x

(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[.]

14 *Rollo*, pp. 2-11. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Mario L. Guariña III and Apolinario D. Bruselas, Jr.

The *ponencia* affirms the conviction for Rape under the first charge, but acquits Sernadilla for the second and third charges.[15] For the first charge, the *ponencia* rules that the Information was sufficient, as it stated that the sexual intercourse happened against AAA's will. During the trial, it was proved that force was employed, and more importantly, he as her Pastor exercised moral ascendancy over her.[16]

As to the second and third charges, however, the *ponencia* acquits Sernadilla because the factual finding made was not that there was force or intimidation, but rather, there was "influence" arising from the material considerations that Sernadilla had been giving AAA. According to the *ponencia*, Sernadilla should have been prosecuted under Section 5(b) of R.A. 7610. Since the Information, however, alleged that the sexual intercourse happened "against [AAA's] will and consent," the Information is properly a prosecution under the RPC, not Section 5(b) of R.A. 7610 (which, to recall, used "coercion" or "influence" as the element of the crime). In sum, the *ponencia* holds that if Sernadilla were to be convicted under Section 5(b), it would violate his right to be informed of the cause of the accusation, as the constitutive elements of Section 5(b) were not alleged in the Information.[17]

I fully concur with the *ponencia.*

Indeed, to convict the accused of a crime, the elements of which are not included in the Information would undoubtedly violate his right to be informed of the cause of the accusation. I agree with the *ponencia*'s ruling that ultimately, the crimes penalized under the RPC, on the one hand, and Section 5(b) of R.A. 7610, on the other, have different elements.

I reiterate and maintain my position in *Tulagan* that R.A. 7610 and the RPC, as amended by R.A. 8353[18] or the Anti-Rape Law of 1997 "have different spheres of application; they exist to complement each other such that there would be no gaps in our criminal laws. They were not meant to operate simultaneously in each and every case of sexual abuse committed against minors."[19] Section 5(b) of R.A. 7610 applies only to the **specific** and **limited instances** where the child-victim is "exploited in prostitution or subjected to other sexual abuse" (EPSOSA).[20]

In other words, for an act to be considered under the purview of Section 5(b) of R.A. 7610, so as to trigger the higher penalty provided therein, "the following essential elements need to be proved: (1) the accused commits the

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15 *Ponencia*, p. 13.

16 See id. at 8-10.

17 Id. at 11-13.

18 AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES, approved on September 30, 1997.

19 *J.* Caguioa, Concurring and Dissenting Opinion in *People v. Tulagan*, supra note 2, at 382. Emphasis and underscoring omitted.

20 Id. at 343. Emphasis and underscoring omitted.

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."[21] Hence, it is not enough that the victim be under 18 years of age. The element of the victim being EPSOSA — *a separate and distinct element* — must first be both alleged and proved before a conviction under Section 5(b) of R.A. 7610 may be reached.

Specifically, in order to impose the higher penalty provided in Section 5(b) as compared to Article 266-B of the RPC, as amended by R.A. 8353, it must be **alleged** and **proved** that the child — (1) for money, profit, or any other consideration or (2) due to the coercion or influence of any adult, syndicate or group — indulges in sexual intercourse or lascivious conduct.[22]

In this case, the Informations only alleged that the victim was 14 or 15 years old at the time of the incidents, and that the sexual intercourse happened "against her will and consent." There was no allegation that she was EPSOSA. Thus, even if there was evidence presented during the trial that she engaged in sexual intercourse for consideration — thereby arguably making her EPSOSA — then Sernadilla cannot be convicted under Section 5(b) of R.A. 7610 because the Informations filed against him did not include the element that his victim was EPSOSA.

At this juncture, I point out that the RTC's error in convicting Sernadilla for a different crime not specified in the Information would not have happened if not for the Court's erroneous interpretations of Section 5(b) of R.A. 7610 in previous cases decided by the *En Banc*, particularly *Dimakuta v. People*[23] (*Dimakuta*), *Quimvel v. People*[24] (*Quimvel*), *People v. Caoili*[25] (*Caoili*), and later on, *Tulagan*.

In these aforecited cases, the Court ended up muddling the separate but complementary spheres of application of the RPC and R.A. 7610, all in the name of imposing a heavier penalty on the person who committed sexual abuse on a child. The case of *Dimakuta*, for instance, involved an Information that was completely similar in the present case:

> That on or about the 24th day of September 2005, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully, unlawfully and feloniously commit a lascivious conduct upon the person of one AAA, who was then a sixteen (16) year old minor, by then and there embracing her, **touching her breast and private part <u>against her will and without her consent</u>** and the act complained of is prejudicial to the physical

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21 Id. at 365-366.
22 See id. at 368.
23 771 Phil. 641 (2015).
24 808 Phil. 889 (2017).
25 815 Phil. 839 (2017).

> and psychological development of the complainant.[26] (Emphasis and underscoring supplied)

Despite the above Information, the Court *En Banc* in *Dimakuta* still convicted the accused under Section 5(b) of R.A. 7610. In justifying its ruling, *Dimakuta* equated the element of "coercion or influence" in Section 5(b) of R.A. 7610 with "force or intimidation" in the RPC, and then laid down a rule that became the progenitor for prosecuting under R.A. 7610 *all* cases of sexual abuse involving children:

> x x x [I]n instances where the lascivious conduct is covered by the definition under R.A. No. 7610, where the penalty is *reclusion temporal* medium, and the act is likewise covered by sexual assault under Article 266-A, paragraph 2 of the RPC, which is punishable by *prision mayor*, the offender should be liable for violation of Section 5(b), Article III of R.A. No. 7610, where the law provides for the higher penalty of *reclusion temporal* medium, if the offended party is a child victim. x x x
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> There could be no other conclusion, a child is presumed by law to be incapable of giving rational consent to any lascivious act, taking into account the constitutionally enshrined State policy to promote the physical, moral, spiritual, intellectual and social well-being of the youth, as well as, in harmony with the foremost consideration of the child's best interests in all actions concerning him or her. This is equally consistent with the declared policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation, and discrimination. Besides, if it was the intention of the framers of the law to make child offenders liable only of Article 266-A of the RPC, which provides for a lower penalty than R.A. No. 7610, the law could have expressly made such statements.[27] (Emphasis omitted)

The foregoing rule was reiterated in cases likewise decided by the Court *En Banc*, namely *Quimvel*, *Caoili*, and culminating in the case of *Tulagan* where the Court laid down guidelines for the nomenclature of sexual crimes committed against children.

In *Tulagan*, the Court **correctly** made a distinction between the crimes punished in the RPC and Section 5(b) of R.A. 7610 **insofar as crimes involving sexual intercourse** was concerned:

> *First*, if sexual intercourse is committed with an offended party who is a child less than 12 years old or is demented, whether or not exploited in prostitution, it is always a crime of statutory rape; more so when the child is below 7 years old, in which case the crime is always qualified rape.
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> *Second*, when the offended party is 12 years old or below 18 and the charge against the accused is carnal knowledge through "force, threat or

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[26] *Dimakuta v. People*, supra note 24, at 652. Citation omitted.

[27] Id. at 670-671. Citations omitted.

> intimidation," then he will be prosecuted for rape under Article 266-A(1)(a) of the RPC. In contrast, in case of sexual intercourse with a child who is 12 years old or below 18 and who is deemed "exploited in prostitution or other sexual abuse," the crime could not be rape under the RPC, because this no longer falls under the concept of statutory rape, and the victim indulged in sexual intercourse either "for money, profit or any other consideration or due to coercion or influence of any adult, syndicate or group," which deemed the child as one "exploited in prostitution or other sexual abuse."
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> x x x x
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> As can be gleaned above, "force, threat or intimidation" is the element of rape under the RPC, while "due to coercion or influence of any adult, syndicate or group" is the operative phrase for a child to be deemed "exploited in prostitution or other sexual abuse," which is the element of sexual abuse under Section 5(b) of R.A. No. 7610. The "coercion or influence" is not the reason why the child submitted herself to sexual intercourse, but it was utilized in order for the child to become a prostitute. Considering that the child has become a prostitute, the sexual intercourse becomes voluntary and consensual because that is the logical consequence of prostitution as defined under Article 202 of the RPC, as amended by R.A. No. 10158 where the definition of "prostitute" was retained by the new law:
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> > Article 202. *Prostitutes; Penalty.* — For the purposes of this article, women who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct, are deemed to be prostitutes.
> >
> > Any person found guilty of any of the offenses covered by this article shall be punished by *arresto menor* or a fine not exceeding 200 pesos, and in case of recidivism, by *arresto mayor* in its medium period to *prision correccional* in its minimum period or a fine ranging from 200 to 2,000 pesos, or both, in the discretion of the court.
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> Therefore, there could be no instance that an Information may charge the same accused with the crime of rape where "force, threat or intimidation" is the element of the crime under the RPC, and at the same time violation of Section 5(b) of R.A. No. 7610 where the victim indulged in sexual intercourse because she is exploited in prostitution **either** "for money, profit or any other consideration **or** due to coercion or influence of any adult, syndicate or group" — the phrase which qualifies a child to be deemed "exploited in prostitution or other sexual abuse" as an element of violation of Section 5(b) of R.A. No. 7610.[28]

The foregoing ruling in *Tulagan* — relied upon by the *ponencia* in this case — which distinguishes between the elements of Rape by sexual intercourse under the RPC, on the one hand, and Lascivious Conduct under Section 5(b) of R.A. 7610, on the other, is correct. This is thus the reason why, as I have mentioned, I give my full concurrence with the *ponencia* as it holds that Rape under the RPC and Section 5(b) of R.A. 7610 have different elements and courts cannot, therefore, convict on one if the Information filed against the accused was for the other.

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[28] *People v. Tulagan*, supra note 2, at 241-246. Citations omitted.

It must still be mentioned, however, that *Tulagan* refused to apply the distinctions between the crimes under the RPC and Section 5(b) of R.A. 7610 when the act involved did not constitute sexual intercourse. If the act involved constituted either Rape by sexual assault or Acts of Lasciviousness under the RPC, but the victim was a minor, *Tulagan* still holds that Section 5(b) of R.A. 7610 applies:

> As pointed out by the *ponente* in *Quimvel*, where the victim of acts of lasciviousness is under 7 years old, Quimvel cannot be merely penalized with *prisión correccional* for acts of lasciviousness under Article 336 of the RPC when the victim is a child because it is contrary to the letter and intent of R.A. No. 7610 to provide for stronger deterrence and special protection against child abuse, exploitation and discrimination. x x x
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> x x x x
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> Justice Caguioa is partly correct. Section 5(b) of R.A. No. 7610 is separate and distinct from common and ordinary acts of lasciviousness under Article 336 of the RPC. However, when the victim of such acts of lasciviousness is a child, as defined by law, We hold that the penalty is that provided for under Section 5(b) of R.A. No. 7610 — *i.e., reclusion temporal medium* in case the victim is under 12 years old, and *reclusion temporal medium* to *reclusion perpetua* when the victim is between 12 years old or under 18 years old or above 18 under special circumstances — and not merely *prision correccional* under Article 336 of the RPC. Our view is consistent with the legislative intent to provide stronger deterrence against all forms of child abuse, and the evil sought to be avoided by the enactment of R.A. No. 7610 x x x[.][29]

In the discussions of sexual acts not constituting rape by sexual intercourse, *Tulagan* even contradicted the distinctions it earlier made and said:

> x x x [T]hat for purposes of determining the proper charge, the term "coercion or influence" as appearing in the law is broad enough to cover "force and intimidation" as used in the Information; in fact, as these terms are almost used synonymously, it is then "of no moment that the terminologies employed by R.A. No. 7610 and by the Information are different." x x x[30]

We also ruled that a child is considered one "exploited in prostitution or subjected to other sexual abuse" when the child indulges in sexual intercourse or lascivious conduct "under the coercion or influence of any adult."[31]

These loose discussions understandably cause confusion to lower courts, as the same decision says one thing in one part but contradicts itself on another even as it deals with just one crime: Rape. To recall, Rape, as defined in the RPC, as amended by R.A. 8353, has the same elements

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29 Id. at 262, 272.
30 Id. at 276. Citation omitted.
31 Id.

regardless of whether it is rape by sexual intercourse or rape by sexual assault.[32]

The absurdity of the Court's ruling all the more becomes apparent when juxtaposed with the present case. The very same discussions in *Tulagan* relied upon by the present *ponencia* (on the distinction between the elements of crimes under the RPC and R.A. 7610) was not applied in *Tulagan* itself, even as the Information therein closely resembles the Information in the present case:

Information in *Tulagan*	**Information in the present case**
That sometime in the month of September 2011, at x x x, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, intimidation and with abuse of superior strength forcibly laid complainant AAA, a 9-year-old minor in a cemented pavement, and did then and there, willfully, unlawfully and feloniously inserted his finger into the vagina of the said AAA, **against her will and consent**.[33] (Emphasis and underscoring supplied)	That on October 28, 2005 at Brgy. Baubo, Maria Aurora, Aurora and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully, and feloniously had carnal knowledge with one [AAA], who was then a fifteen (15) year old barrio lass **against her will and consent** thereby effectively prejudicing her development as a child.[34] (Emphasis and underscoring supplied)

As can be seen above, both Informations (1) allege the element of force or intimidation (or against the will and consent of the victim), (2) without mentioning that the victim was EPSOSA. Despite such similarities, the results of the two cases diverge — one ending in acquittal, the other resulting in conviction, even when both cases ultimately deal with the crime of Rape.

Verily, the error of the RTC that the *ponencia* now rectifies could have been avoided altogether had *Tulagan* simply upheld the differences in the constitutive elements of the crimes under the RPC, on the one hand, and Section 5(b) of R.A. 7610 on the other. To reiterate, these two laws

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[32] 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 otherwise unconscious;
   c) By means of fraudulent machination or grave abuse of authority; and
   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.
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 anal orifice of another person. (Emphasis supplied)

[33] *People v. Tulagan*, supra note 2, at 212-213.

[34] Records, p. 139.

"have different spheres of application; they exist to complement each other such that there would be no gaps in our criminal laws. They were not meant to operate simultaneously in each and every case of sexual abuse committed against minors."[35]

All told, I fully concur with the *ponencia* as it affirms Sernadilla's conviction in Criminal Case No. 3600, but acquits him of the charges in Criminal Case Nos. 3599 and 3596 for failure of the prosecution to establish the elements of the crime charged therein. Specifically, I concur that Sernadilla could not be convicted for violation of Section 5(b) of R.A. 7610, the crime proven by the prosecution in Criminal Case Nos. 3599 and 3596, as the Informations in the said cases outline the elements for Rape by sexual intercourse under the RPC. Meanwhile, for Criminal Case No. 3600, I concur with the affirmance of Sernadilla's conviction for Rape, as the evidence presented during the trial support the elements of the crime alleged in the Information charging Rape by sexual intercourse.

In view of the foregoing, I vote to **PARTLY GRANT** the present Petition, and for judgment to be rendered as follows:

1. In Criminal Case Nos. 3596 and 3599, accused-appellant Freddie Sernadilla is **ACQUITTED**. The Decision dated June 17, 2011 of the Court of Appeals in CA-G.R. CR No. 31721 which affirmed the Regional Trial Court of Baler, Aurora, Branch 96, is hereby **REVERSED and SET ASIDE**.

2. In Criminal Case No. 3600, the Decision dated June 17, 2011 of the Court of Appeals in CA-G.R. CR No. 31721 is **AFFIRMED with MODIFICATION**. Accused-appellant Freddie Sernadilla is found **GUILTY** beyond reasonable doubt of the crime of Rape under Article 266-A(1) in relation to Article 266-B of the Revised Penal Code, for which he is sentenced to suffer the penalty of *reclusion perpetua*. Accused-appellant is also **ORDERED** to pay the victim, AAA, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. Legal interest at the rate of six percent (6%) *per annum* is imposed on the monetary awards from the finality of this Decision until fully paid.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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[35] *J.* Caguioa, Concurring and Dissenting Opinion in *People v. Tulagan*, supra note 2, at 382. Emphasis omitted