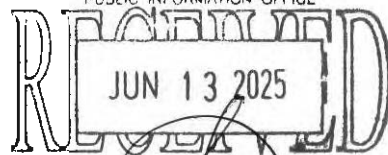




SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: *[Signature]*

Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

JAMES DUAVIT
VILLACARLOS,

Petitioner,

y G.R. No. 267315

Present:

LEONEN, J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
APR 02 2025

X-----X

DECISION

LEONEN, J.:

A person accused of a crime as serious as lascivious conduct under Section 5(b) of Republic Act No. 7610 “will tend to escape liability by shifting the blame on the victim for failing to manifest resistance to sexual abuse.”¹

This Court resolves a Petition for Review on *Certiorari*² assailing the Court of Appeals’ September 23, 2022 Decision³ and May 8, 2023 Resolution,⁴ which affirmed with modification⁵ the Regional Trial Court’s

¹ *People v. Pareja*, 724 Phil. 759, 778 (2014) [Per J. Leonardo-De Castro, First Division]. See also *People v. XXX*, 877 Phil. 742 (2020) [Per J. Inting, Second Division].

² *Rollo*, pp. 13-39.

³ *Id.* at 42-61. The Decision in CA-G.R. CR No. 45750 was penned by Associate Justice Ramon A. Cruz and concurred in by Associate Justices Louis P. Acosta and Jaime Fortunato A. Caringal of the Tenth Division of the Court of Appeals, Manila.

⁴ *Id.* at 63-64. The Resolution in CA-G.R. CR No. 45750 was penned by Associate Justice Ramon A. Cruz and concurred in by Associate Justices Louis P. Acosta and Jaime Fortunato A. Caringal of the Former Tenth Division of the Court of Appeals, Manila.

⁵ *Id.* at 58. As to the penalties and damages.

December 2, 2020 Joint Decision⁶ and convicted James Duavit y Villacarlos (Duavit) of two counts of lascivious conduct under Section 5(b) of Republic Act No. 7610.⁷

In two Informations, both dated June 19, 2015, Duavit was charged with two counts of violation of Section 5(b) of Republic Act No. 7610:

CRIMINAL CASE NO. MC15-4678-FC:

That on or about the 12th day of December 2014, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his moral ascendancy and influence upon minor AAA,⁸ fifteen (15) years old, being the latter's class adviser, did then and there willfully, unlawfully and feloniously commit lascivious act upon minor AAA, by touching the latter's penis continuously to erect it, which act demeans the intrinsic worth and dignity of said minor, thereby prejudicing his normal growth and development.

CONTRARY TO LAW.⁹

CRIMINAL CASE NO. MC15-4679-FC:

That on or about the 15th day of December 2014, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his moral ascendancy and influence upon minor AAA, fifteen (15) years old, being the latter's class adviser, did then and there willfully, unlawfully and feloniously commit lascivious act upon minor AAA, by touching and squeezing the latter's penis and masturbating it, which act demeans the intrinsic worth and dignity of said minor, thereby prejudicing his normal growth and development.

CONTRARY TO LAW.¹⁰

⁶ *Id.* at 91–105. The Joint Decision in Crim. Case Nos. MC15-4678-FC and MC15-4679-FC was penned by Presiding Judge Imelda L. Portes-Saulog of Branch 214, Regional Trial Court of [REDACTED] City.

⁷ Republic Act No. 7610, sec. 5 states:

SECTION 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:

.....
(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[.]

⁸ Names were already redacted in the Regional Trial Court and Court of Appeals judgments, pursuant to *Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances*, Supreme Court Amended Administrative Circular No. 83-2015, September 5, 2017, which requires the redaction of the personal circumstances of the victim and offender in cases under Republic Act No. 7610.

⁹ *Rollo*, p. 91.

¹⁰ *Id.* at 91–92.

A warrant of arrest was issued against Duavit; upon his arrest, he posted bail through a surety bond.¹¹ At his arraignment,¹² he pleaded not guilty to both charges. Later, during pre-trial, the parties stipulated as to the following:

1. that Duavit was AAA's class adviser and teacher;
2. that the Regional Trial Court had jurisdiction over the offenses charged; and
3. that AAA was 15 years old on the dates of the alleged incidents (December 12 and 15, 2014).¹³

Thereafter, joint trial on the merits ensued.¹⁴

The prosecution's witnesses were AAA; his mother, MMM; and Dr. Cornelio Banaag, Jr. (Dr. Banaag), a licensed psychiatrist.¹⁵

At the time of the trial, AAA was a 17-year-old Grade XII student at the [REDACTED].¹⁶

According to AAA, the first incident happened on December 12, 2014, when he was in their classroom with Duavit, after class hours, to discuss their upcoming Christmas party.¹⁷ He had to go into the room after class hours because he had shouted '*pritong daga*' during the class meeting about the party and had been sent out of the room as punishment.¹⁸

To AAA's surprise, after he had finished questioning Duavit about the party, Duavit began speaking of sex.¹⁹ While still talking about sex, Duavit locked the room's back and front doors,²⁰ which were around three meters apart.²¹ AAA, who was sitting beside the front door, did not leave the room as Duavit was locking the back door.²²

¹¹ *Id.* at 92.

¹² *Id.* With the assistance of counsel *de officio* Atty. Ma. Louise C. Aviso.

¹³ *Id.* The prosecution presented and marked its documentary evidence, but Duavit, through counsel *de parte* Atty. Ernesto D. Ceñal, manifested that he has no documentary evidence.

¹⁴ *Id.*

¹⁵ *Id.* at 92. The formal presentation of Erwin Rosario Ines, Chairperson of the Child Protection Committee of [REDACTED] (*Id.* at 92), was dispensed with since the parties stipulated as to his September 28, 2018 Judicial Affidavit and its attachments—"(1) Resignation Letter submitted by accused...Duavit...on 13 January 2015 to [REDACTED] City, and (2) Preventive Suspension Order issued by the [REDACTED] City to accused...Duavit...on 18 December 2014." (*Id.* at 95-96.) The parties also stipulated on Ines "ha[ving] no personal knowledge [of] the facts charged in the Information." (*Id.* at 96.)

¹⁶ *Id.* at 93.

¹⁷ *Id.*

¹⁸ *Id.* at 94.

¹⁹ *Id.* at 93.

²⁰ *Id.*

²¹ *Id.* at 94.

²² *Id.*

After locking both doors, Duavit “approached AAA, held his penis[,] and tried to erect it,” ignoring AAA’s pleas for him to stop.²³

AAA told his friends about the incident but was too scared to report it. Also, on that same day, he and his friends saw Duavit “flick the private part of their classmate [BBB] and [CCC].”²⁴

As to the second incident, AAA said it happened on December 15, 2014.²⁵ As he lined up for the general assembly, Duavit asked him to collect raffle ticket payments but he failed to attend to that task.²⁶ He proceeded to take his exam, which Duavit proctored.²⁷ After the exam, he went to the locker room to get his notebook from DDD.²⁸ He then saw Duavit waiting for him in their classroom.²⁹ Duavit followed up on the collection, and upon learning that AAA had not done it, Duavit made AAA go inside the classroom to explain.³⁰ Fearing a repeat of the first incident, AAA asked DDD to stay, but the latter was called away by someone else.³¹ AAA thus went inside the classroom but left the door open and sat on a chair near the door.³²

Similar to the first incident, Duavit started speaking of sex, locking the classroom doors, and approaching AAA.³³

AAA did not leave the room while Duavit was locking the back door, but he tried to redirect the conversation to non-sexual topics.³⁴ He also put his bag on top of his private parts.³⁵

Yet Duavit removed AAA’s bag and began touching his penis.³⁶ He then told AAA to stand near the door, where he “held AAA, exposed his penis[,] and started masturbating it.”³⁷ He “asked [AAA] what he felt.”³⁸

²³ *Id.* at 93.

²⁴ *Id.* The Court of Appeals detailed in its Decision that AAA testified: (1) that on December 12, 2014, he and his friends saw Duavit “flick the private part of their classmate named [redacted] to which the latter shouted ‘aray’”; and (2) that Duavit “also did the same thing to his classmate named [redacted] because the latter was sleeping.” (*Id.* at 45.) Because of the redaction of the names, it now cannot be determined which incident involves BBB or CCC.

²⁵ *Id.* at 94.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 45.

³⁰ *Id.*

³¹ *Id.* at 94.

³² *Id.* at 45.

³³ *Id.* at 94.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 45.

AAA, who had gone numb and felt disoriented from shock, pleaded for Duavit to stop.³⁹ Duavit stopped when “he sensed AAA’s classmate Carlos Ahuno [pass] by the room and [peep] inside.”⁴⁰

Afterward, AAA told MMM about the two incidents.⁴¹

AAA asserted that “he has witnesses” but that they would “need to be summoned to court.”⁴² Lastly, he stated that Duavit’s abuses traumatized and scared him to the point of needing treatment from a psychiatrist.⁴³

For her part, MMM confirmed that AAA told her about the incidents on December 15, 2014. The next day, she wrote a complaint letter against Duavit, reported him to the Mandaluyong City Police Station, and filed a formal complaint before the Department of Education. She also had AAA examined by a psychiatrist. Finally, she filed a complaint against Duavit with the Office of the City Prosecutor of Mandaluyong City.⁴⁴

The last prosecution witness, Dr. Banaag, testified that in March 2015, he had conducted a psychological evaluation on AAA, “for evaluation of the behavioral changes happening to him,” like his “refusal to go out [of] their house, isolation of his self, making absences, and crying alone in his room.”⁴⁵ Dr. Banaag conducted the evaluation through a clinical interview, during which AAA recounted to him the incidents of abuse.⁴⁶ Dr. Banaag noted that AAA “was crying...as he recalled the incidents.”⁴⁷

In an April 7, 2015 Psychiatric Report, Dr. Banaag diagnosed AAA as suffering from Post-traumatic Stress Disorder.⁴⁸ He placed AAA on psychotherapy treatment and prescribed him Rivotril, an anti-anxiety medicine, meant to be taken “when [AAA] cannot sleep and [is] having anxiety attacks.”⁴⁹

Dr. Banaag further stated that AAA’s last consultations were on February 20 and 27, 2018 and March 25 and 27, 2018.⁵⁰ By then, AAA “was sleeping better” and “no longer taking [anti-anxiety] medicine,” but he was “still very sad and angry about the incidents.”⁵¹

³⁹ *Id.* at 94.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 95.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

Duavit, as the lone defense witness,⁵² denied the charges against him.⁵³ He said that he had taught in various schools for 20 years, since 1997, and that no administrative or criminal case had ever been filed against him—until the ones initiated by AAA and MMM.⁵⁴

As to his relationship with AAA, Duavit clarified that AAA was “his former student in Grade VII and Grade IX Mathematics...at [REDACTED],” and was “under his advisory class in Grade IX.”⁵⁵

Duavit then denied the allegation that he talked about sex with AAA.⁵⁶ He countered that “AAA has an image of relating whatever you tell him to sex” and “would always start discussing [sex] if he wants to initiate green jokes to the class.”⁵⁷ Nonetheless, he admitted that he did not report AAA’s misbehavior; he instead alleged that he talked to MMM about it.⁵⁸

Duavit also claimed that “AAA was on probation when he was his student,”⁵⁹ supposedly because AAA’s conduct was below satisfactory,⁶⁰ and that he had given AAA and four other students failing grades in Mathematics.⁶¹ He further claimed that that failing grade pushed AAA to make an allegation of rape against him, since the grade, compounded with AAA’s probationary status, would result in AAA’s dismissal from the school.⁶²

Duavit added that it was impossible for him to subject AAA to sexual acts inside their classroom since “passers-by can easily see what is happening inside [it].”⁶³

Duavit thus gave his own version of the events of December 12 and 15, 2014.

Firstly, he confirmed that he had sent AAA out of the classroom on December 12, 2014, for shouting during the class meeting about their Christmas party. But he alleged that he had also sent out another student, one

⁵² *Id.* at 96.

⁵³ *Id.* at 97–100.

⁵⁴ *Id.* at 96–97.

⁵⁵ *Id.* at 97.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 99.

⁵⁹ *Id.* at 97.

⁶⁰ *Id.* at 99.

⁶¹ *Id.*

⁶² *Id.* at 97.

⁶³ *Id.*

Master Evangelista. Thus, after class hours, both AAA and Master Evangelista went back inside their classroom to get their things.⁶⁴

He confirmed too that AAA had then stayed behind to ask him about party details finalized during the meeting.⁶⁵ It was around 3:00 p.m. and they were alone in the room.⁶⁶ He asserted, though, that he only “entertained AAA while he was erasing the writings on the board,” and that after their talk, “he inspected the air conditioning units, checked the back door if it was locked[,]went ahead the front door[,]and turned off the lights.”⁶⁷ Following his completion of those tasks, he and AAA left the classroom.⁶⁸

Secondly, he confirmed that on December 15, 2014, he went to the assembly with his advisory class. There, he said, he had issued a general reminder for raffle ticket payments and asked those “who will donate goods [to] proceed to their classroom.” He clarified that he repeated his instructions not only to AAA but also to Yanga and a certain Master Ramos.⁶⁹

He then headed to their classroom to receive payments and donations. Seeing that it was closed, he went to get the key. Upon his return, no students were waiting, so he decided to go to the faculty room.⁷⁰

He later returned to the classroom to retrieve special papers. On his way there, he saw AAA with Mendoza, and he reminded them about the payments.⁷¹

When he got to the classroom, he left the door open and began looking for his papers. While searching, he saw AAA and a certain Master Morales parting ways.⁷²

He confirmed that AAA then went into the room and that it was just the two of them there.⁷³ Initially, they talked about the collection of payments.⁷⁴ After that, he claimed that they “convers[ed] upon the insistence of AAA” on the latter’s concerns about “his conduct and academic performance.”⁷⁵ He stressed that “[t]heir conversation covered only th[o]se matters” and that for

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* at 98–99.

⁶⁷ *Id.* at 97.

⁶⁸ *Id.*

⁶⁹ *Id.* at 98.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.* at 98–99.

⁷⁴ *Id.* at 98.

⁷⁵ *Id.*

the duration of their chat, he “was at his table” while AAA “s[at] in the student’s chair.”⁷⁶

However, he went on to state that their conversation was “a lengthy talk” touching upon “AAA’s plans for college, family[,] and...his other classmates,” as well as the “job description of his parents.”⁷⁷ He also stated that at some point, he left his desk to go to the overhead projector (OHP) cabinet.⁷⁸

He then alleged that after updating the OHP display, he “got the special paper,” then he and AAA both exited the room, and they then parted ways.⁷⁹

Duavit next narrated the events following December 15, 2014.

He said that he was shocked to receive a December 18, 2014 notice from School Principal Elizabeth C. Aguilar, “requiring him to explain the alleged physical abuse he committed upon AAA,” and to learn that he would be preventively suspended effective January 5, 2015. In response, he submitted both an explanation letter and a resignation letter.⁸⁰ He clarified that he resigned before his suspension commenced and before he could be investigated, such that “he has no certificate of good moral character from his previous schools.”⁸¹ Still, he claimed, that he “was given honorable discharge.”⁸²

He subsequently found out that there was an administrative case against him, “before the Professional Regulation Commission[,] for the same incidents, seeking the revocation of his license.” He averred that his license was never revoked and that he renewed it on June 28, 2017.⁸³ He added that after he left [REDACTED], he was able to teach at other schools.⁸⁴

In a December 2, 2020 Joint Decision, the Regional Trial Court found Duavit guilty beyond reasonable doubt of two counts of lascivious conduct under Section 5(b) of Republic Act No. 7610.⁸⁵ It determined that AAA’s narration of the two incidents was straightforward, categorical, and consistent; he did not waiver in detailing when and how Duavit “touched, squeezed[,] and masturbated his penis.”⁸⁶ It thus deemed AAA’s testimony to be credible.⁸⁷

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.* at 99.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.* at 99.

⁸⁵ *Id.* at 101–105.

⁸⁶ *Id.* at 101.

⁸⁷ *Id.*

Therefore, it ruled that all elements of the offense were established: (1) Duavit's touching AAA's penis constituted lascivious conduct;⁸⁸ (2) AAA, who was 15 years old on December 12 and 15, 2014, was a child when the two incidents occurred;⁸⁹ and (3) AAA was a child subjected to other sexual abuse, as contemplated by Section 5(b) of Republic Act No. 7610, since Duavit used his "strong moral ascendancy over AAA," as class adviser and teacher, to influence AAA into submitting to lascivious conduct.⁹⁰ Elaborating on the third element, it noted Duavit's "admi[ssion] that AAA was a probationary student when enrolled under his class."⁹¹ It found that that strengthened Duavit's influence and weakened AAA's free will, such that "AAA was left with nothing to do when he was confronted with the indecent circumstance, but to heed [Duavit]...considering his probationary status and his academic performance."⁹² Lastly, it ruled that Duavit's imputation of ill motive against AAA was unsupported by the records.⁹³

The dispositive portion of the Regional Trial Court Joint Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. MC15-4678-FC, the Court finds accused **JAMES DUAVIT Y VILLACARLOS GUILTY** beyond reasonable doubt for the crime of violation of Section 5(b), Article III of Republic Act No. 7610. Accordingly, he is sentenced to suffer an indeterminate penalty of imprisonment of **TEN (10) YEARS, TWO (2) MONTHS and TWENTY ONE (21) DAYS of *prision mayor*, as minimum to SEVENTEEN (17) YEARS of *reclusion temporal*, as maximum** and to pay AAA the amount of **THIRTY THOUSAND PESOS (Php30,000.00)** as moral damages, subject to an interest of 6% per annum from finality of this decision until fully paid.
2. In Criminal Case No. MC15-4679-FC, the Court finds accused **JAMES DUAVIT Y VILLACARLOS GUILTY** beyond reasonable doubt for the crime of violation of Section 5(b), Article III of Republic Act No. 7610. Accordingly, he is sentenced to suffer an indeterminate penalty of imprisonment of **TEN (10) YEARS, TWO (2) MONTHS and TWENTY ONE (21) DAYS of *prision mayor*, as minimum to SEVENTEEN (17) YEARS of *reclusion temporal*, as maximum** and to pay AAA the amount of **THIRTY THOUSAND PESOS (Php30,000.00)** as moral damages, subject to an interest of 6% per annum from finality of this decision until fully paid.

SO ORDERED.⁹⁴ (Emphasis in the original)

⁸⁸ *Id.* at 101–102.

⁸⁹ *Id.* at 103.

⁹⁰ *Id.* at 102.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.* at 104.

⁹⁴ *Id.* at 104–105.

On appeal, Duavit sought acquittal, mainly by questioning the Regional Trial Court's accordance of full credence to AAA's testimony.⁹⁵ He argued that AAA's testimony was incredible chiefly due to the following points: (1) "it is hard to believe that [he] would abuse [AAA] in broad daylight...in a place where people would usually pass by"; (2) since AAA was already 15 years old during the incidents, he had "enough presence of mind, strength, and wisdom to call someone for help" and "people passing by would definitely notice"; and (3) "after the first incident, it is incredible for [AAA] to allow himself to [again] be alone with [Duavit]."⁹⁶

In its assailed September 23, 2022 Decision, the Court of Appeals affirmed Duavit's conviction,⁹⁷ with modifications to the penalties and damages.⁹⁸ It upheld the Regional Trial Court's evaluation of AAA's testimony as being detailed, consistent, and spontaneous.⁹⁹ It likewise affirmed the trial court's findings on the presence of the three elements of the offense.¹⁰⁰ Conversely, it found Duavit's arguments to be unmeritorious.¹⁰¹

The Court of Appeals then awarded PHP 50,000.00 in civil indemnity and increased the award of moral damages to PHP 50,000.00, for each of the two counts of lascivious conduct. It also recomputed the imposable penalty under Section 5(b) of Republic Act No. 7610.¹⁰² It arrived at the penalty of 10 years, two months, and 21 days of *prision mayor*, as minimum, to 17 years, four months, and one day of *reclusion temporal*, as maximum, for each count of the subject offense.¹⁰³

The dispositive portion of the Court of Appeals' Decision reads:

WHEREFORE, the appeal is **DISMISSED**. The assailed Joint Decision dated December 2, 2020 of the Regional Trial Court of Mandaluyong City, Branch 214 in Criminal Case Nos. MC15-4678-FC and MC15-4679-FC finding Accused-Appellant James Duavit y Villacarlos **GUILTY** beyond reasonable doubt of two (2) counts of Lascivious Conduct under Section 5 (b) of Republic Act No. 7610 is **AFFIRMED** with **MODIFICATION** as follows:

1. In Criminal Case No. MC15-4678-FC, accused-appellant is sentenced to suffer the penalty of ten (10) years, two (2) months, and twenty one (21) days of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal* as maximum, and is ordered to pay the victim

⁹⁵ *Id.* at 51.

⁹⁶ *Id.*

⁹⁷ *Id.* at 52-57.

⁹⁸ *Id.* at 57-58.

⁹⁹ *Id.* at 53-55.

¹⁰⁰ *Id.* at 55-56.

¹⁰¹ *Id.* at 57.

¹⁰² *Id.* at 58.

¹⁰³ *Id.*

Php50,000.00 as civil indemnity and Php50,000.00 as moral damages.

2. In Criminal Case No. MC15-4679-FC, accused-appellant is sentenced to suffer the penalty of ten (10) years, two (2) months, and twenty one (21) days of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal* as maximum, and is ordered to pay the victim Php50,000.00 as civil indemnity and Php50,000.00 as moral damages.

All monetary awards and damages shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until full satisfaction thereof.

SO ORDERED.¹⁰⁴ (Emphasis in the original, citation omitted)


Duavit moved for reconsideration, which motion the Court of Appeals denied in its assailed May 8, 2023 Resolution.¹⁰⁵

Hence, the present Petition, where Duavit reiterates the arguments he had earlier raised before the Court of Appeals.¹⁰⁶

In its November 20, 2023 Resolution, this Court required respondent People of the Philippines to file a comment on the present Petition.¹⁰⁷

In compliance, the People of the Philippines, through the Office of the Solicitor General, filed its March 22, 2024 Comment.¹⁰⁸ Firstly, the Office of the Solicitor General argued that the present Petition should be dismissed outright for raising purely questions of fact.¹⁰⁹ Secondly, it maintained that AAA's testimony is credible, for having been delivered "in a categorical, straightforward, spontaneous[,] and frank manner[.]"¹¹⁰ It emphasized that points in AAA's testimony, which Duavit attacked for being incredible, cannot bring about Duavit's acquittal, as they are unrelated to the offense's elements.¹¹¹ Lastly, it asserted that through AAA's testimony, the prosecution had fully established all elements of the offense.¹¹²

This Court noted the Comment in its May 22, 2024 Resolution.



¹⁰⁴ *Id.* at 59.

¹⁰⁵ *Id.* at 63–64.

¹⁰⁶ *Id.* at 20–33.

¹⁰⁷ *Id.* at 141.

¹⁰⁸ *Id.* at 148–165. Prior to its Comment, the People of the Philippines, through the Office of the Solicitor General, filed a Motion for Extension (of time to file Comment) dated January 18, 2024 (*Id.* at 142–146), which this Court granted in its February 26, 2024 Resolution. (*Id.* at 147.)

¹⁰⁹ *Id.* at 155–157.

¹¹⁰ *Id.* at 157.

¹¹¹ *Id.* at 158.

¹¹² *Id.* at 159–162.

Thus, for this Court's resolution is the issue of whether petitioner James Duavit y Villacarlos is guilty beyond reasonable doubt of committing two counts of lascivious conduct punished under Section 5(b) of Republic Act No. 7610.

After a thorough evaluation of the records of this case, this Court resolves to deny the present Petition. There is no reason to reverse the ruling of the Court of Appeals. Petitioner is guilty beyond reasonable doubt of two counts of lascivious conduct under Section 5(b) of Republic Act. No. 7610.

Section 5(b) of Republic Act No. 7610 states:

SECTION 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:

....

(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[.]¹¹³

The elements of lascivious conduct under the provision are that: (1) the accused commits sexual intercourse or lascivious conduct; (2) the act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the male or female child is below 18 years old.¹¹⁴

In relation to the first element, Section 2(h) of the Implementing Rules and Regulations of Republic Act No. 7610 (Rules and Regulations on the Reporting and Investigation of Child Abuse Cases) defines "lascivious conduct" as "*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.*"¹¹⁵

¹¹³ Rep. Act No. 7610 (1992), sec. 5(b).

¹¹⁴ *People v. Barcelá*, 734 Phil. 332, 351 (2014) [Per J. Mendoza, Third Division]. (Citation omitted)

¹¹⁵ IRR of Republic Act. No. 7610 (1993), sec. 2(h). (Emphasis supplied)

As to the second element, the Court discussed the phrase “other sexual abuse” in *Dimakuta v. People*:¹¹⁶

[A] child is considered as sexually abused under Section 5 (b) of R.A. No. 7610 when he or she is subjected to lascivious conduct under the **coercion or influence** of any adult. Intimidation need not necessarily be irresistible. It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. The law does not require physical violence on the person of the victim; moral coercion or ascendancy is sufficient. On this point, *Caballo v. People* explicated:

Section 5, Article III of RA 7610 provides that **when a child indulges in...lascivious conduct due to the coercion or influence of any adult**, the child is deemed to be a “*child exploited in prostitution and other sexual abuse*.” In this manner, the law...quell[s] all forms of abuse, neglect, cruelty, exploitation and discrimination against children, prejudicial as they are to their development.

[L]ascivious conduct under the coercion or influence of any adult exists when there is some form of compulsion equivalent to intimidation which subdues the free exercise of the offended party's free will. Corollary thereto, Section 2(g) of the Rules on Child Abuse Cases conveys that sexual abuse involves the element of influence which manifests in a variety of forms. It is defined as:

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.

“[I]nfluence” [is] the “improper use of power or trust in any way that deprives a person of free will and substitutes another’s objective.”... “[C]oercion” is the “improper use of ...power to compel another to submit to the wishes of one who wields it.”¹¹⁷ (Emphasis in the original, citations omitted)

As the Court of Appeals stated, the prosecution, through private complainant’s testimony, successfully established the concurrence of all three elements of the offense in both the December 12 and 15, 2014 incidents:

All the foregoing elements for the offenses charged against accused-appellant were proven beyond reasonable doubt. Notwithstanding the victim’s youth, he was able to narrate in detail his traumatic experience [at] the hands of accused-appellant who sexually molested him. First off, it has been established that accused-appellant committed acts with lewd designs to his student. As to what transpired inside the classroom and the events

¹¹⁶ 771 Phil. 641 (2015) [Per J. Perálta, *En Banc*].

¹¹⁷ *Id.* at 671–672

leading thereto, the victim gave a consistent and spontaneous testimony which the RTC found to be convincing than the defense of denial of accused-appellant. The records show that accused-appellant sexually abused the victim [o]n two (2) separate occasions, to wit:

X X X

9.Q: Do you recall any peculiar incident that happened on December 12, 2014?

A: Yes sir, *hinaras po ako ni* [S]ir James Duavit.

10.Q: How did he harass you?

A: *Ganito po*, after our class was dismissed, I was left in the classroom to ask Sir Duavit of the details of our Christmas [p]arty[.]

11.Q: What happened next, if any?

A: After I got the details, Sir Duavit started talking about sex matters.

X X X

15.Q: What happened after he locked the front and back door of your classroom and approached you and continued talking about sex?

A: Sir Duavit suddenly held my penis and he tried to make it erect.

16.Q: What was your reaction if any when your [S]ir Duavit held your penis and tried to make it erect?

A: I was so shocked and pleaded to Sir Duavit to stop what he was doing but he was still holding my penis.

X X X

22.Q: What about on December 15, 2014, do you remember any unusual incident that happened?

A: Yes sir. Sir Duavit repeated what he did to me.

23.Q: How did it happen?


A: Sir Duavit was assigned as the proctor of our examination and he requested me to collect the payments for the raffle tickets while we [we]re falling in line on the General Assembly area.

24.Q: Were you able to collect the payments for the raffle tickets?

A: No, sir.

25.Q: What happened next after that, is there any?

A: After the examination I went to my locker to get my notebook with [redacted] then I saw



Sir Duavit still waiting for me in our classroom.

26.Q: What did he tell you, if any?

A: Sir Duavit asked me about the payment for the raffle tickets and he forced me to get inside the classroom.

27.Q: What did you do, if any?

A: Thinking that Sir Duavit will repeat what he did to me, I requested my classmate [redacted] not to leave me but someone called him.

28.Q: What did you do when your classmate left because somebody called him?

A: I followed the instruction of Sir Duavit to get inside the classroom and left the door opened (*sic*) and I sit (*sic*) on the chair near the door.

29.Q: After you sat on the chair, what (*sic*) did [S]ir Duavit do. If any?

A: Sir Duavit started asking me several questions and he stand (*sic*) up and locked the front and back door.

30.Q: What happened next after he locked the front and back door, if any?

A: Sir Duavit talked about sex and I tried to divert the topic but he would bring back the conversation to sex matters.

31.Q: What happened next, if any?

A: When Sir Duavit tried to approach me[,] I put my bag in front of my private part but he tried to insert his hand going to my private part.

32.Q: What did he do if any when you put your bag in front of your private part?

A: He removed my bag and touched and squeezed my private part to make it erect.


33.Q: By the way[,] what private part are you referring to?

A: Penis *ko po*.

x x x

35.Q: What did he do if any after refusing to heed to your excuses?

A: He asked me to stand up and go to the door. When I acceded, I was surprised when he held me and exposed my private part and masturbated it.



36.Q: After he held you, exposed your private part and masturbated it, what happened next, if any?

A: Sir Duavit asked me what I felt but I only tell (*sic*) him to stop because I felt so numb and disoriented.

X X X

Accused-appellant's act of intentionally touching the genitalia of the victim, either directly or through clothing, and the subsequent act of masturbating the latter constitute lascivious conduct under Section 2 (h) of the Implementing Rules and Regulations (IRR) of R.A. No. 7610[.]

....

Second, accused-appellant having moral ascendancy over his student coerced the latter to engage in lascivious conduct which is within the purview of sexual abuse[.]

....

Third, AAA, who was 15 years old when the offenses were committed, was clearly below 18 years old at the time of the commission of the offense based on his testimony which was corroborated by his certificate of live birth presented during trial. Section 3 (a), Article I of R.A. No. 7610 provides:

X X X

(a) "Children" refers to persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition[.]¹¹⁸ (Citations omitted)

Pertinently, "[c]ase law holds with consistency that 'when the victim's testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility, and the accused may already be convicted solely on the basis thereof.'"¹¹⁹ This applies here in favor of private complainant.

Petitioner's attack on the credibility of private complainant's testimony must fail. Contrary to his claim, sexual abuse may occur even within school premises.¹²⁰ Sex offenders "are not deterred from committing the odious act of sexual abuse by mere inconvenience or awkwardness of the situation or even by the presence of people or family members nearby."¹²¹ Also, private

¹¹⁸ Rollo, pp. 53-56.

¹¹⁹ *People v. Pueyo*, 871 Phil. 703, 711 (2020) [Per J. Hernando, Second Division]. (Citation omitted)

¹²⁰ *AAA261422 v. XXX261422*, G.R. No. 261422 (Formerly UDK-17206), November 13, 2023 [Per J. Lazaro-Javier, Second Division]. (Citation omitted)

¹²¹ *People v. Manlolo*, 879 Phil. 190, 203 (2020) [Per J. Reyes, J. Jr., First Division].

complainant's lack of resistance and quietness cannot be used against private complainant. Victims' "failure...to shout for help or escape during the incidents does not undermine their credibility" and it is "not...fatal to the prosecution's case."¹²² In the same vein, private complainant cannot be discredited by the mere fact that he allowed himself to be alone again with petitioner after the first incident's occurrence. It bears stressing that private complainant did try to have a classmate stay with him and not leave him alone with petitioner; it is not his fault that the classmate got called away by someone else. Besides, it would not matter if private complainant had not even made that effort; "[t]here is, after all, no standard of behavior that can be anticipated of a victim of sexual abuse during or after the incident[.]"¹²³ This is all the more true for young victims like private complainant, who was only 15 years old when petitioner molested him.¹²⁴

In light of the foregoing, the Court sustains the Regional Trial Court and the Court of Appeals' disregard of petitioner's denial, it being "an intrinsically weak defense" that petitioner did not "[buttress] with strong evidence of non-culpability[.]"¹²⁵ As self-serving negative evidence,¹²⁶ petitioner's bare denial cannot trump private complainant's positive identification of him, especially since petitioner did not prove that the prosecution witnesses were actuated by ill motive.¹²⁷

Coming now to the penalties, the Court affirms the appellate court's modification of the trial court's imposed sentence for each of the two counts of lascivious conduct under Section 5(b) of Republic Act No. 7610.

The provision prescribes the penalty of *reclusion temporal* in its medium period to *reclusion perpetua*.¹²⁸ Computing the impossible sentence for each count of the offense must be done in accordance with the Indeterminate Sentence Law, seeing as "*reclusion perpetua* is merely used as the maximum period...of a range starting from *reclusion temporal medium*, a *divisible penalty*."¹²⁹ Section 1 of the Indeterminate Sentence Law states:

SECTION 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum

¹²² *People v. Bejim*, 824 Phil. 10, 22 (2018) [Per J. Del Castillo, First Division].

¹²³ *Beleta v. People*, 914 Phil. 777, 784 (2021) [Per J. Inting, Second Division]. (Citations omitted)

¹²⁴ *People v. Dalaguet*, 926 Phil. 713, 725 (2022) [Per J. Lopez, J., Second Division].

¹²⁵ *People v. Moya*, 853 Phil. 279, 304 (2019) [Per J. Peralta, Third Division].

¹²⁶ *Dela Cruz v. People*, 903 Phil. 801, 820 (2021) [Per J. Lopez, J., Third Division].

¹²⁷ *Trocio v. People*, 929 Phil. 60, 69–70 (2022) [Per J. Inting, Third Division].

¹²⁸ Republic Act No. 7610 (1992), sec. 5(b).

¹²⁹ *Uddin v. People*, 890 Phil. 878, 900 (2020) [Per J. Inting, Third Division]. (Emphasis supplied, citation omitted)

term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.¹³⁰

Following the above provision—and given that this case has neither the circumstances under Section 31(a) to (e) of Republic Act No. 7610,¹³¹ nor any of the aggravating or mitigating circumstances contemplated by Article 64(1) of the Revised Penal Code¹³²—

the [sentence's] maximum term...shall be...from the medium period, or...17 years, four (4) months and one (1) day to 20 years...[and] the minimum term[, from]within the range of the penalty next lower in degree, which is *prision mayor* in its medium period to *reclusion temporal* in its minimum period, or...eight (8) years and one (1) day to 14 years and eight (8) months.¹³³

The Court of Appeals' modified penalty of imprisonment for 10 years, two months, and 21 days of *prision mayor*, as minimum, to 17 years, 4 months, and 1 day of *reclusion temporal*, as maximum, sits duly within the bounds of the above sentence's terms.

That said, the Court must add a PHP 15,000.00 fine, under Section 31(f) of Republic Act No. 7610:¹³⁴

¹³⁰ Act No. 4103 (1933), sec. 1, as amended by Act No. 4225 (1935).

¹³¹ *Uddin v. People*, 890 Phil. 878, 900–901 (2020) [Per J. Inting, Third Division].

Section 31(a) to (e) of Republic Act No. 7610 reads:

SECTION 31. *Common Penal Provisions.*—

(a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;

(b) When the offender is a corporation, partnership or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;

(c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked;

(d) When the offender is a foreigner, he shall be deported immediately after service of sentence and forever barred from entry to the country;

(e) The penalty provided for in this Act shall be imposed in its maximum period if the offender is a public officer or employee: *Provided, however*, That if the penalty imposed is *reclusion perpetua* or *reclusion temporal*, then the penalty of perpetual or temporary absolute disqualification shall also be imposed: *Provided, finally*, That if the penalty imposed is *prision correccional* or *arresto mayor*, the penalty of suspension shall also be imposed[.]

¹³² *People v. Cabales*, 891 Phil. 601, 616 (2020) [Per J. Carandang, First Division].

Article 64(1) of the Revised Penal Code states that “[w]hen there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.”

¹³³ *Carbonell v. People*, 901 Phil. 501, 511 (2021) [Per J. Delos Santos, Third Division].

¹³⁴ “Such modification of the penalty is but a mere consequence of this Court’s review of an appeal in a criminal case. Settled is the rule that an appeal in a criminal case throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court’s decision based on grounds other than those raised as errors by the parties. ‘The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine the records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.’” (*People v. Moya*, 853 Phil. 279, 304–305 (2019) [Per J. Peralta, Third Division]. (Citations omitted))

SECTION 31. *Common Penal Provisions.*—

...
(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.¹³⁵

The PHP 15,000.00 fine should be for each count of violation of Republic Act No. 7610:

In addition to moral damages, a fine in the amount of P15,000.00 should likewise be imposed pursuant to our ruling in *Amployo v. People*:

It does not end there. In *People v. Abadies*, and with respect specifically to lascivious conduct amounting to child abuse under Section 5(b) of Rep. Act No. 7610, we imposed a fine of P30,000 for each count of lascivious conduct in addition to the award of moral damages on the justification that —

It will be noted that Section 5, Article II of Republic Act No. 7610 provides for the penalty of imprisonment. Nevertheless, Section 31(f), Article XII (Common Penal Provisions) thereof allows the imposition of a fine subject to the discretion of the court, provided that the same 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. This 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 stresses the duty of 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.

With the case of *Abadies* as guidepost, we impose a fine of Fifteen Thousand Pesos (P15,000.00) on petitioner.¹³⁶
(Citations omitted)

The fine may be imposed upon petitioner, despite his not being private complainant's immediate family member. Firstly, he committed the offenses against private complainant when he was not just one of the latter's teachers but his class adviser—a position imbued with authority and trust, both of

¹³⁵ Republic Act No. 7610 (1992), sec. 31(f).

¹³⁶ *Olivarez v. Court of Appeals*, 503 Phil. 421, 440–441 (2005) [Per J. Ynares-Santiago, First Division]. See also *People v. Sumingwa*, 618 Phil. 650, 674 (2009) [Per J. Nachura, Third Division]; *People v. Villacampa y Cadiente*, 823 Phil. 70, 91–92 (2018) [Per J. Carpio, Second Division]; *People v. BBB*, 856 Phil. 540, 567 (2019) [Per J. Peralta, Third Division]; and *People v. XXX270317*, G.R. No. 270317, October 23, 2024 [Per J. J.Y. Lopez, Second Division].

which he gravely abused. Secondly, his offenses against private complainant caused the latter to suffer from post-traumatic stress disorder. As in *Trocio v. People*.¹³⁷

[T]he fine of P15,000.00 should be imposed regardless of whether petitioner is an “immediate” member of the family of AAA. In several cases, the Court has awarded the fine notwithstanding the fact that the perpetrator of the offense committed under RA 7610 is *not* an immediate family member of the victim.

In *People v. Basa, Jr.*, the Court awarded a fine although the accused-appellant therein was a churchmate of the victim.

Similarly, in *Escalante v. People*, the Court awarded a fine of P15,000.00 to the victim after it found therein petitioner guilty of Child Abuse under Section 5(b) of RA 7610 for forcibly sucking the victim’s penis and then inserting it in his anus. Notably, therein petitioner was also not related to the victim.

[P]etitioner’s liability for the imposed fine of P15,000.00 should be upheld in furtherance of the law’s objective which is to provide special protection to children and to assist in the rehabilitation of child victims. The gravity of the case at hand cannot be discounted. Petitioner is a doctor, and the trauma as a result of the incident could remain for the rest of AAA’s life. Hence, petitioner must pay the fine pursuant to Section 31(f), Article XII of RA 7610.¹³⁸ (Citations omitted)

Lastly, “the Court deems it proper to award exemplary damages in the amount of [PHP] 50,000.00, in addition to the awards of civil indemnity and moral damages at [PHP] 50,000.00 each, in accordance with *People v. Tulagan*.”¹³⁹ The said sums “shall earn interest at the rate of 6% per annum from the date of finality of this judgment until full payment.”¹⁴⁰

FOR THESE REASONS, the Petition is **DENIED**. The September 23, 2022 Decision and May 8, 2023 Resolution of the Court of Appeals in CA-G.R. CR No. 45750 are **AFFIRMED** with **MODIFICATION**:

1. In Criminal Case No. MC15-4678-FC: Petitioner **JAMES DUAVIT y VILLACARLOS** is found **GUILTY** beyond reasonable doubt of lascivious conduct punished under Section 5(b) of Republic Act No. 7610. He is sentenced to imprisonment for 10 years, two months, and 21 days of *prision mayor*, as minimum, to 17 years, four months, and one day of *reclusion temporal*, as maximum. He is also directed

¹³⁷ 929 Phil. 60 (2022) [Per J. Inting, Third Division].

¹³⁸ *Id.* at 71–72. In *Trocio*, the petitioner was not a total/random stranger, but a “doctor, whom [the private complainant] had sought several times in the past for consultation.”

¹³⁹ *Beleta v. People*, 914 Phil. 777, 784–785 (2021) [Per J. Inting, Second Division], citing *People v. Tulagan*, 849 Phil. 197, 291 (2019) [Per J. Peralta, *En Banc*].

¹⁴⁰ *People v. XXX270317*, G.R. No. 270317, October 23, 2024 [Per J. J.Y. Lopez, Second Division].

to **PAY** a fine of PHP 15,000.00 under Section 31(f) of Republic Act No. 7610.

He is further ordered to **PAY** private complainant AAA the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages.

2. In Criminal Case No. MC15-4679-FC: Petitioner **JAMES DUAVIT y VILLACARLOS** is found **GUILTY** beyond reasonable doubt of lascivious conduct punished under Section 5(b) of Republic Act No. 7610. He is sentenced to imprisonment for 10 years, two months, and 21 days of *prision mayor*, as minimum, to 17 years, four months, and one day of *reclusion temporal*, as maximum. He is also directed to **PAY** a fine of PHP 15,000.00 under Section 31(f) of Republic Act No. 7610.

He is further ordered to **PAY** private complainant AAA the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages.

Petitioner **JAMES DUAVIT y VILLACARLOS'S** bail for temporary liberty is cancelled.

The monetary awards in both cases shall earn interest at the rate of 6% per annum from the finality of this Decision until fully paid.

SO ORDERED."



MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice



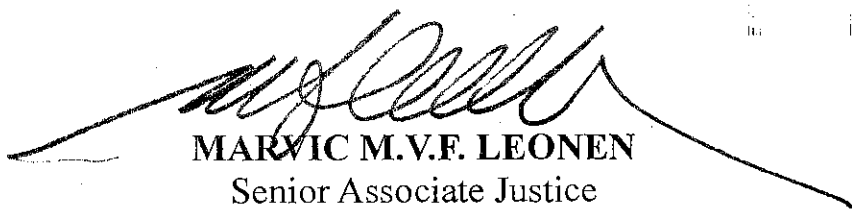
JHOSEP V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

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



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice