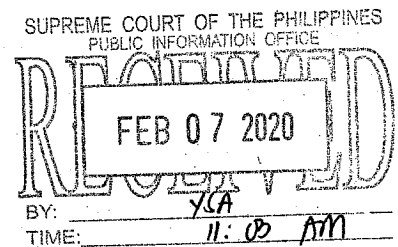


MODIFIED



Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated January 27, 2020 which reads as follows:

“G.R. No. 248300 (ABC¹ v. People of the Philippines). - After a review of the records, this Court resolves to **DENY** the petition for review on *certiorari* for failure to sufficiently prove that the Court of Appeals committed any reversible error in its assailed Decision dated February 19, 2019 and Resolution dated July 10, 2019 in CA-G.R. CR No. 41186 as to warrant the exercise of the Court’s discretionary appellate jurisdiction.

However, in line with recent jurisprudence, there is a need to modify the nomenclature of the crime charged, which was “violation of Section 5 (b) of Republic Act (R.A.) No. 7610,” the penalty imposed, and the damages awarded. We hold that if the acts constituting sexual assault are committed against a victim who is exactly twelve (12) years of age, or more than twelve (12) but below eighteen (18) years of age, or is eighteen (18) years old or older but is unable to fully take care of herself/himself or protect herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the crime should be designated as "Lascivious Conduct under Section 5(b) of R.A. No.

¹ Pursuant to Amended Administrative Circular No. 83-2015 on "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances" which states that confidentiality of the identities of the parties, records, and court proceedings is mandated under Republic Act (R.A.) No. 7610 in cases of child abuse, exploitation, and discrimination, and Article 266-A of the Revised Penal Code. Also as decreed in *People of the Philippines v. Cabalquinto*, 533 Phil. 703 (2006), complainant's real name and those of the immediate family or household members, are withheld to effectuate the provisions of R.A. No. 7610 (Special Protection of Children against Child Abuse, Exploitation and Discrimination Act) and its implementing rules, R.A. No. 9262 (Anti-Violence against Women and Their Children Act of 2004) and its implementing rules, and A.M. No. 04-10-11-SC (Rule on Violence against Women and their Children).

A handwritten signature in the bottom right corner of the page.

7610," and the imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua*.² The evidence confirms that AAA was 14 years old at the time of the commission of the offense. The acts of licking and inserting of ABC's finger in AAA's private part undeniably amounted to "lascivious conducts." Thus, We use the nomenclature "Lascivious Conduct" under Section 5(b) of R.A. No. 7610.

Furthermore, since the perpetrator is AAA's father, and such alternative circumstance of relationship was alleged in the Information and proven during trial, the same should be considered as an aggravating circumstance for the purpose of increasing the period of the imposable penalty. There being no mitigating circumstance to offset the said alternative aggravating circumstance, the penalty provided shall be imposed in its maximum period, *i.e.*, *reclusion perpetua*.³ This is in consonance with Section 31(c) of R.A. No. 7610 which expressly provides that the penalty shall be imposed in its maximum period when the perpetrator is, *inter alia*, the parent of the victim.⁴

The award of civil indemnity, moral damages, and exemplary damages when the penalty of *reclusion perpetua* is imposed is ₱75,000.00 each.⁵ Thus, the amount of exemplary damages awarded should be increased to ₱75,000.00. Lastly, petitioner is ordered to pay a fine in the amount of ₱15,000.00, pursuant to Section 31 (f), Article XII of R.A. No. 7610.

WHEREFORE, the Court **ADOPTS** and **AFFIRMS** with **MODIFICATIONS** the findings of fact and conclusions of law in the Decision dated February 19, 2019 and the Resolution dated July 10, 2019 of the Court of Appeals in CA-G.R. CR No. 41186. Petitioner ABC is found **GUILTY** beyond reasonable doubt of Lascivious Conduct under Section 5(b) of Republic Act No. 7610, and is sentenced to suffer the penalty of *reclusion perpetua* and to **PAY** a fine of ₱15,000.00. He is further **ORDERED** to pay the victim AAA civil indemnity, moral damages, and exemplary damages, each in the amount of ₱75,000.00. The civil indemnity, moral damages and exemplary damages so imposed are subject to interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.

² *People v. Caoili*, 815 Phil. 839, 894 (2017).


³ *Manuel Barallas Ramilo v. People*, G.R. No. 234841, June 3, 2019.

⁴ *Supra* note 2, at 896.

⁵ *People v. Salvador Tulagan*, G.R. No. 227363, March 12, 2019.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

125

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1101 Quezon City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M. No.
12-7-1-SC)

Judgment Division (x)
Supreme Court

UR

Court of Appeals(x)
Manila
(CA-G.R. CR No. 41186)

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

The Presiding Judge
Regional Trial Court, Branch 270
1440 Valenzuela City
(Criminal Case No. 1799-V-17)

ABC
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City



RIA