



Republic of the Philippines
Supreme Court
 Baguio City

THIRD DIVISION

**LUZVIMINDA PASCUA y
 BULAN,**

Petitioner,

-versus-

PEOPLE OF THE PHILIPPINES,
 Respondent.

G.R. No. 240883

Present:

CAGUIOA, J., *Chairperson,*
 GAERLAN,
 LOPEZ, J.,*
 DIMAAMPAO, and
 SINGH, JJ.

Promulgated:

April 26, 2023

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DECISION

CAGUIOA, J.:

This is a Petition for Review on Certiorari¹ (Petition), filed pursuant to Rule 45 of the Rules of Court, elevating the Decision² dated January 30, 2018 and the Resolution³ dated July 19, 2018 of the Court of Appeals (CA), in CA-G.R. CR No. 38860. The assailed Decision affirmed *in toto* the Judgment⁴ dated December 16, 2015 rendered by the Regional Trial Court of the City of Ilagan, Isabela, Branch 18 (RTC), in Criminal Case No. 6013, which found petitioner Luzviminda Pascua y Bulan (Pascua) guilty beyond reasonable doubt of the crime of child abuse under Section 10(a), Article VI of Republic Act No. (R.A.) 7610,⁵ otherwise known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.”

* Designated additional Member vice Associate Justice Henri Jean Paul B. Inting per Raffle dated April 19, 2023.

¹ *Rollo*, pp. 12-32.

² Id. at 34-55. Penned by Associate Justice Rafael Antonio M. Santos, with Associate Justices Apolinario D. Bruselas, Jr. and Socorro B. Inting concurring.

³ Id. at 57-61. Penned by Associate Justice Rafael Antonio M. Santos, with Associate Justices Apolinario D. Bruselas, Jr. and Priscilla J. Baltazar-Padilla, concurring.

⁴ Id. at 83-98. Penned by Presiding Judge Rodolfo B. Dizon.

⁵ 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.

The Facts

Pascua was charged with violation of Section 10(a) of R.A. 7610 or child abuse in an Information⁶ dated September 17, 2012, the accusatory portion of which reads:

That on or about the 2nd day of March 2011, in the municipality of Ilagan, Province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and feloniously, caused injuries upon the person of [DDD],⁷ who is a minor of 13 years old (*sic*), by pinching the shoulders and slapping the back of the said minor, causing abrasion, linear, 2cm, proximal 3rd, inner aspect, upper arm and tenderness, right lumbar region and right scapular area, **which physical abuse and cruelty** is prejudicial to his interest and development as a child.

CONTRARY TO LAW.⁸ (Emphasis supplied)

On arraignment, Pascua pleaded not guilty.⁹ Pre-trial and trial thereafter ensued.¹⁰

Version of the Prosecution

The prosecution presented the following witnesses: 1) DDD, the private complainant; 2) VVV, the mother of DDD; 3) LLL, the father of DDD; and 4) Dr. Pelagia A. Abbago (Dr. Abbago),¹¹ the doctor who examined DDD after the alleged incident, whose testimonies were succinctly summarized by the CA and the trial court, as follows:

“DDD the child-complainant, was born on April 18, 1999 to parents VVV [mother] and LLL [father] x x x. On the date of the incident, March 2, 2011 x x x, DDD was 12 years, 11 months and 2 days old x x x to be exact x x x. He was studying then x x x at AES as a Grade 6 pupil x x x. His class adviser was the accused, [Pascua, who is also] a cousin of his mother VVV by blood, [thereby] mak[ing] DDD a nephew of the accused x x x.

On March 2, 2011, at around 7:30 a.m., DDD was on-board the tricycle driven by VVV[, on their way to school]. x x x DDD arrived [three minutes] late x x x for the flag ceremony. x x x

⁶ Records, pp. 1-2.

⁷ The identity of the victim or any information which could establish or compromise his/her identity, as well as those of his/her immediate family or household members, shall be withheld pursuant to R.A. 7610, *supra* note 5; R.A. 9262, entitled “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 A.M. No. 04-10-11-SC, otherwise 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.

⁸ Records, p. 1.

⁹ *Rollo*, p. 36, CA Decision.

¹⁰ *Id.*

¹¹ *Id.* at 84, RTC Decision.

Since DDD arrived late, x x x DDD was hesitant to enter the school ground (*sic*). x x x On the prodding of VVV, however, and with the assurance that VVV would keep watch over him, DDD entered the school ground (*sic*). The school gate was only about five (5) meters away from the school flag pole. Thus, VVV remained seated on her parked tricycle and posted herself at a vantage spot fronting the school gate itself to monitor visually the movements of DDD inside the school ground (*sic*) x x x.

From the gate, DDD proceeded to the school flag pole to join the assembly of grade school pupils[,] faculty members[,] and, school visitors for the morning's flag ceremony. At around 7:45 a.m., in spite of tardiness, DDD managed x x x to position himself x x x [just in time] for the flag ceremony. When the national anthem was about to be sung, the accused approached DDD from behind and 'pinched DDD's back, right side near his ribs[,] and, also DDD's back, lower left side' x x x. Then immediately after the national anthem was sang (*sic*), the accused confronted DDD again for his tardiness by 'pinching the upperside (*sic*) of DDD's back[,] and 'slapping' DDD's upper arm, back side' x x x. DDD was humiliated in the presence of all the people gathered at the said event x x x. DDD just kept quiet and did not answer back the accused x x x. Feeling helpless all the while, DDD just stared at VVV x x x signaling for help thru eye contact[.] VVV x x x saw clearly and graphically how the accused accosted her son DDD x x x.

VVV cried instantaneously when she saw the 'pinching and slapping incident' unfold before her eyes. Thus, VVV left the school site x x x. Upon reaching home x x x, VVV asked her husband LLL, father of DDD, to go with her to AES to inquire from the accused what DDD's fault was and why DDD was repeatedly pinched. Thus, VVV and LLL headed to AES and sought the accused personally in the latter's classroom. From VVV's account, they inquired directly from the accused what DDD's fault was. In response, however, the accused told VVV and LLL to get out of the room because they were trespassing. x x x

From LLL's account, VVV came home crying and narrated how the accused repeatedly pinched DDD x x x. Thus, LLL and VVV went to AES purposely to ask the accused about what DDD did. Standing by the door of the accused' (*sic*) classroom, LLL greeted the accused 'good morning'. The accused defensively responded by saying that she did not pinch DDD. Nevertheless, LLL asked the accused again why she pinched DDD[,] but the accused responded off-tangently by saying that 'wherever they go, she was (*sic*) not afraid of any lawyer'. When LLL and VVV were about to leave the classroom's door, 'the accused gave them DDD's school card with the admonition to go to the Mayor and the Barangay Captain to get good grades for DDD' x x x.

DDD saw the above-incident involving his parents and the accused. When his father LLL and mother VVV tried to inquire from the accused about the pinching incident, they were told by the accused that they were trespassing. Then the accused ordered DDD to get this (*sic*) school bag right then and there and to look for another teacher x x x.

Thus, in reaction to the accused' (*sic*) overbearing conduct, VVV brought DDD promptly to the clinic of Dr. Pelagia A. Abbago for medical examination. After examining DDD, Dr. Abbago issued the corresponding medical certificate dated March 2, 2011 x x x. DDD still went back to school after his medical examination x x x.



Based on Dr. Abbago's testimony, she affirmed that she examined DDD in the morning of March 2, 2011. She identified the medical certificate that she issued x x x and recited in Court her medical findings[:] '[a]brasion, linear 2 centimeter[s] proximal inner aspect, left upper arm, and tenderness: [r]ight [l]umbar region and right scapular' x x x. She described specifically the locations and nature of DDD's injuries as follows: 'the abrasion is located at the upper left arm, inner bicep, proximal third; the linear 2 centimeter[s] refers to an unusual scrape in the upper arm. The said injury was caused by pinching. The tenderness means pain. When she examined DDD, DDD elicited tenderness in the right lumbar region of his back and DDD's upper back, right scapular area, meaning that there were two (2) localized parts of DDD's body that had tenderness, caused by secondary to the slap or the blow given to the victim.' Exhibit 'C' bottom portion, states that 'DDD needed medical attention for five (5) days barring complications['] x x x.

x x x x

On March 7, 2011, VVV brought DDD to the police station to report the pinching and slapping incident of March 2, 2011. At the police station, the police secured the sworn statements of DDD x x x and VVV x x x which DDD and VVV signed on March 10, 2011. The police filed the criminal complaint against the accused on March 14, 2011 at the [Office of the Provincial Prosecutor] x x x.

When DDD was about to graduate by the end of March 2011, the accused forewarned DDD to withdraw the complaint against [her] if DDD wanted to [p]ass Grade 6. x x x[']¹²

Version of the Defense

Pascua admitted that DDD was her former Grade 6 pupil at AES and her nephew by blood thru VVV.¹³ According to her version of the incident, "[d]uring the singing of the national anthem, DDD allegedly made noise so she pinched the left side of DDD's body just once to call his attention to respect the singing of the national anthem."¹⁴ Then, she tapped DDD's left shoulder because DDD continued making noise.¹⁵ She characterized her "pinching, tapping[,] and slapping the body of DDD to be slight, [or] just enough to address [his] unruly behavior x x x during the flag ceremony."¹⁶

Ruling of the RTC

In a Judgment dated December 16, 2015, the RTC convicted Pascua, the dispositive portion of which states:

WHEREFORE, the accused LUZVIMINDA PASCUA Y BULAN is hereby pronounced guilty beyond reasonable doubt as principal for the crime of "Child Abuse" defined and penalized under Section 10 (a), Article VI of R.A. No. 7610, and sentences her to an indeterminate prison term

¹² Id. at 36-39, CA Decision; id. at 85-88, RTC Judgment.

¹³ Id. at 39.

¹⁴ Id. at 39-40.

¹⁵ Id. at 40.

¹⁶ Id. Underscoring omitted.

ranging from FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correctional (*sic*) as “MINIMUM”, to SIX (6) YEARS[,] EIGHT (8) MONTHS and ONE (1) DAY of prision mayor, as MAXIMUM.

Accused is ordered to pay DDD the amounts of P20,000.00 as moral damages; P20,000.00 as exemplary damages; and P20,000.00 as temperate damages, plus interest at the rate of 6% per annum on each item of the civil liability reckoned from the finality of this decision until full payment.

SO ORDERED.¹⁷

The RTC ruled that with Pascua’s admission that she pinched, tapped, and slapped DDD, it was not difficult to find her guilty of child abuse.¹⁸ Yet, even without such admission, the RTC was convinced that the prosecution had sufficiently proven the elements of the crime.¹⁹

Aggrieved, Pascua appealed her conviction to the CA, arguing that 1) cruelty and intention to debase, degrade, or demean DDD were absent; and 2) the testimonies of the prosecution witnesses were incredible and inconsistent.²⁰

Ruling of the CA

In a Decision dated January 30, 2018, the CA affirmed Pascua’s conviction. It ruled that Pascua’s acts of pinching, tapping, and slapping DDD fall squarely under acts that debase, degrade, or demean the intrinsic worth and dignity of DDD as a human being.²¹ The CA emphasized that DDD’s alleged unruly behavior cannot justify the physical abuse that Pascua inflicted on him.²² Moreover, the CA ruled that absent any showing that the RTC’s findings of facts were tainted with arbitrariness, it was bound by its assessment.²³

In a Resolution dated July 19, 2018, the CA denied Pascua’s motion for reconsideration. Hence, this Petition.

Pascua’s main contention in her Petition is that the CA erred in affirming her conviction despite the absence of cruelty and intention to debase, degrade, or demean DDD.²⁴ She claims that her acts of *slightly* pinching and tapping DDD were based on a justifiable ground — at most, it was merely an act of disciplining an unruly pupil. Citing Article 218 of the Family Code, she stresses that teachers exercise special parental authority over the child while under their

¹⁷ Id. at 97-98, RTC Judgment.

¹⁸ Id. at 92.

¹⁹ See id. at 93-95.

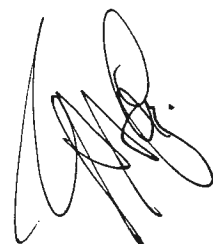
²⁰ Id. at 41, CA Decision.

²¹ Id. at 45.

²² Id. at 47.

²³ Id. at 52.

²⁴ Id. at 18, Petition for Review on Certiorari.



supervision, instruction or custody; hence, they can reasonably discipline their pupils within the bounds of law.²⁵

Granting without conceding that she exceeded her authority, Pascua claims that the case of *Bongalon v. People*²⁶ (*Bongalon*) is applicable. In that case, the Court ruled that: “[n]ot every instance of the laying of hands on a child constitutes the crime of *child abuse* under Section 10 (a) of [R.A.] 7610. Only when the laying of hands is shown beyond reasonable doubt to be intended by the accused to debase, degrade or demean the intrinsic worth and dignity of the child as a human being should it be punished as *child abuse*.”²⁷

For its Comment,²⁸ respondent posits that cruelty need not be present before Pascua may be convicted of child abuse, specifically by physical abuse.²⁹ On the other hand, respondent submits that the prosecution was able to establish that Pascua’s acts of pinching, tapping, and slapping were done to debase, degrade, or demean the dignity of DDD.³⁰

Issue

Whether the CA committed reversible error in affirming Pascua’s conviction.

Ruling

The Petition is meritorious. The Court disagrees with both the CA and the RTC.

Section 10(a) of R.A. 7610 provides:

SEC. 10. *Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child’s Development.* —

(a) Any person who shall commit any other acts of **child abuse**, cruelty or exploitation or be responsible for other conditions prejudicial to the child’s development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period. (Emphasis supplied)

In turn, Section 3(b) of R.A. 7610 defines child abuse and enumerates the acts covered by it, to wit:

SEC 3. *Definition of Terms.* —

²⁵ Id. at 22.

²⁶ 707 Phil. 11 (2013).

²⁷ *Rollo*, p. 24, Petition for Review on Certiorari, citing *People v. Bongalon*, id. at 14. Emphasis omitted; italics supplied.

²⁸ Id. at 132-148.

²⁹ Id. at 142.

³⁰ Id. at 143-144.

x x x x

(b) “Child abuse” refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1) Psychological and **physical abuse**, neglect, **cruelty**, sexual abuse and emotional maltreatment;

(2) **Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;**

(3) Unreasonable deprivation of his [or her] basic needs for survival, such as food and shelter; or

(4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his [or her] growth and development or in his [or her] permanent incapacity or death. (Emphasis supplied)

Based on the Information filed in the instant case, Pascua was charged with violation of Section 10(a) of R.A. 7610, specifically child abuse by infliction of physical abuse and cruelty.

Physical abuse

“Physical abuse” is not defined in R.A. 7610 or in the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases (IRR). However, from the definition of “child abuse” in the IRR, it can be inferred that “physical abuse” involves the infliction of physical injuries to the child victim, to wit:

Section 2. *Definition of Terms.* – As used in these Rules, unless the context requires otherwise –

x x x x

b) “Child abuse” refers to the **infliction of physical** or psychological **injury**, cruelty to, or neglect, sexual abuse or exploitation of a child;

x x x x (Emphasis supplied)

Section 2(d) of the IRR defines “physical injury” to include “lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child.”

The injuries resulting from Pascua’s acts of pinching, tapping, and slapping her minor student, DDD, did not reach the level of physical injury as it is so defined by Section 2(d) of the IRR. Verily, the injuries inflicted by Pascua on DDD are not severe or serious enough as to constitute physical injuries contemplated under R.A. 7610. To be sure, the abrasion, unusual scrape, and tenderness caused to DDD were only slight physical injuries and



are not as severe or serious as the examples of physical injuries provided in the IRR, namely lacerations, fractured bones, burns, or internal injuries.

The Court is mindful of the CA's stance on the matter — “physical injuries” is not qualified; therefore, it should not exclude slight physical injuries, *viz.*:

x x x RA 7610 does not limit the definition of physical injuries to only serious and severe, in fact it stated that physical injuries “includes **but is not limited to** lacerations, fractures (*sic*) bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child. It does not exclude slight physical injuries, as in this case.”³¹ (Emphasis and underscoring in the original)

The Court, however, disagrees. The position of the CA is misplaced and is not consistent with basic and elementary rules in statutory construction.

The doctrine of *ejusdem generis* provides that “where general terms follow the designation of particular things or classes of persons or subjects, the general term will be construed to comprehend those things or persons of the same class or of the same nature as those specifically enumerated.”³² In the same vein, the doctrine of *noscitur a sociis* provides that “proper construction may be had by considering the company of words in which the term or phrase in question is founded or with which it is associated.”³³

Applying the foregoing guidelines in the instant case, the term “physical injury” should be construed to mean those of the same class or nature as “lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm.” Here, it cannot be gainsaid that the injuries inflicted on DDD are not of the same level of severity or seriousness as “lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm.” As aptly observed by the Office of the Solicitor General (OSG),³⁴ and to which the Court agrees, the injuries inflicted on DDD were only slight physical injuries. Therefore, the infliction thereof on a child cannot be classified as child abuse by physical abuse under R.A. 7610.

Cruelty

On this score, the Court likewise notes that the Information also charges Pascua with the crime of child abuse by inflicting cruelty on the person of DDD.³⁵ In the recently decided case of *San Juan v. People*³⁶ (*San Juan*), the Court offered a nuanced discussion regarding the difference between “cruelty” that is punishable under Section 3(b)(1) of R.A. 7610, from that contemplated

³¹ *Rollo*, p. 48, CA Decision.

³² *National Power Corporation v. Angas*, 284-A Phil. 39, 45 (1992). Citations omitted.

³³ *People v. Bello*, 693 Phil. 457, 462 (2012). Citation omitted.

³⁴ See *rollo*, p. 48, CA Decision.

³⁵ Records, p. 1, Information.

³⁶ G.R. No. 236628, January 17, 2023.

under Section 3(b)(2) thereof, in relation to the definition of “cruelty” provided in Section 2(c) of the IRR, to wit:

SEC 3. *Definition of Terms.* —

x x x x

(b) “Child abuse” refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1) Psychological and physical abuse, neglect, **cruelty**, sexual abuse and emotional maltreatment;

(2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

x x x x (Emphasis supplied)

Section (2)(c) of the IRR defines “cruelty” as “any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as human being.” As observed by the Court in *San Juan*, under the IRR, “cruelty” is “defined in the same manner as the punishable act under Section 3(b)(2) of [R.A. 7610].”³⁷

In *San Juan*, the Court explained that the “cruelty” envisaged in Section 3(b)(1) of R.A. 7610 is the intentional and malicious infliction of suffering that is excessive and unnecessary.³⁸ In other words, it encompasses acts that are intrinsically cruel.³⁹ Unlike the “cruelty” described in Section 3(b)(2) of R.A. 7610, “[i]t does not need an inquiry into the specific intent to debase, degrade or demean the intrinsic worth and dignity of the child.”⁴⁰

a. Section 3(b)(1) of R.A. 7610

Like *San Juan*, the Information filed against Pascua for child abuse by infliction of cruelty is not qualified by the phrase “which debases, degrades or demeans the intrinsic worth and dignity of [DDD] as a human being.” To be sure, it only states: “which x x x cruelty is prejudicial to his interest and development as a child.”⁴¹ Accordingly, the allegation of cruelty in the Information filed against Pascua must also be assessed based on its common usage, or the cruelty that is contemplated under Section 3(b)(1) of R.A. 7610. As succinctly explained in *San Juan*:

Herein, the Information filed against San Juan does not carry the qualifying allegations of “debased, degrade[d] or demeaned the intrinsic worth and dignity of the child.” To analyze the Information based on the definition of the Rules and Regulations of Republic Act No. 7610 alone

³⁷ Id. at 18.

³⁸ Id. at 19.

³⁹ See id. at 20.

⁴⁰ Id. at 19.

⁴¹ Records, p. 1, Information.

would require this Court to look into the requirement of specific intent because of the allegation of “cruelty.” However, such a step would result in requiring the prosecution to prove more than what has been alleged in the Information. Moreso, this additional requirement would be based on an Implementing Rules and Regulations that failed to make a differentiation based on the provisions of the law it seeks to implement. The term “cruelty” as found in Section 3(b)(1) of Republic Act No. 7610, and not under Section 3(b)(2), cannot be automatically associated with the latter provision, which requires an additional requirement of proof of specific intent, especially when it does not contain the material allegations of “debased, degrade[d] or demeaned the intrinsic worth and dignity of the child.”

This must be so for it is settled that both the accused and the State are entitled to due process. For the former, such right includes the right to present evidence for his or her defense; for the latter, such right pertains to a fair opportunity to prosecute and convict. As the State sought the prosecution of San Juan in an Information that did not allege debasing, degrading or demeaning the intrinsic worth and dignity of a child, it cannot be required to prove such a specific intent, especially when the averments in the Information is supported by another provision of R.A. No. 7610 that do[es] not require such a specific intent. To do otherwise would be tantamount to a violation of the State’s right to due process.⁴²

What is intrinsically cruel can be determined by the manner the assailed act was executed.⁴³ In *Lucido v. People*⁴⁴ (*Lucido*), the Court held the accused therein, who was a neighbor of the minor’s family and was entrusted with the custody of the minor victim, liable for child abuse after it found the former’s repeated acts of strangulation, pinching, and beating as “extreme measures of punishment not commensurate with the discipline of an eight (8)-year-old child.”⁴⁵

By implication, the acts committed by Pascua, specifically the pinching of the side, tapping of the shoulder, and slapping of the back of DDD, cannot be classified as intrinsically cruel. Certainly, they were not excessive like those inflicted in *Lucido*. Therefore, Pascua should not be held liable for violation of Section 3(b)(1) of R.A. 7610.

b. Section 3(b)(2) of R.A. 7610

As explained above, Pascua cannot be prosecuted for violation of Section 3(b)(2) of R.A. 7610, considering the same is not spelled out in the Information. Nonetheless, the Court offers an extended discussion below, for the guidance of the bench, the bar, and the public.

Preliminarily, the infliction of slight physical injuries such as those involved in the instant case may still be considered as child abuse under Section 10(a) of R.A. 7610; *provided*, that it is proven that the act is done to debase, degrade or demean the intrinsic worth and dignity of a child as a human being

⁴² *San Juan v. People*, supra note 36, at 20-21. Citation omitted.

⁴³ *Id.* at 20.

⁴⁴ 815 Phil. 646 (2017).

⁴⁵ *Id.* at 663.



under Section 3(b)(2) of R.A. 7610.⁴⁶ In other words, it must be proven that cruelty, as defined under Section (2)(c) of the IRR, is also inflicted.

Again, Section (2)(c) of the IRR defines “cruelty” as “any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as human being.” Debasement refers to the act of reducing the value, quality, or purity of something; degradation, on the other hand, is a lessening of a person’s or thing’s character or quality; while demean means to lower in status, condition, reputation, or character.⁴⁷

Time and again, the Court has ruled that the lack of specific intent to debase, degrade or demean the intrinsic worth and dignity of a child as a human being may be proven “by demonstrating that the allegedly abusive acts were [done] solely out of emotional outrage in the spur of the moment,”⁴⁸ or when “the accused, in committing the acts complained of, merely intended to discipline or correct a wrongful behavior of the minor.”⁴⁹ The latter holds especially true in cases wherein the accused is legally entrusted with the care and discipline of the minor victim such as the latter’s teacher;⁵⁰ provided, however, that “the disciplining acts are commensurate to, and may reasonably address, the misbehavior of the child being dealt with.”⁵¹ As held in *Briñas v. People*,⁵² “the presence or absence of specific intent to debase the child in child abuse cases may be drawn from the circumstances of the case and the manner by which the accused inflicted the physical or psychological injuries upon the minor.”⁵³

In the instant case, while the Court does not condone the acts of Pascua, the Court is likewise not prepared to rule that her acts of pinching, tapping, and slapping DDD were inflicted with intent to debase, degrade, or demean the intrinsic worth and dignity of DDD as a human being. Records show and the defense was able to establish that Pascua’s acts were done at the spur of the moment and for the purpose of disciplining her minor student.

Again, while the Court does not tolerate the injuries inflicted by Pascua, the Court understands the role she plays in the life of DDD. The Court notes from the records that not only was Pascua entrusted with the care and discipline of DDD as the latter’s teacher, she is also DDD’s aunt by blood. Although one’s relationship to a child does not automatically extinguish his or her liability for child abuse, he or she may be absolved therefrom if it is proven that the acts committed for the purpose of disciplining the victim were proportionate to the misbehavior committed by the child.⁵⁴

⁴⁶ See *Briñas v. People*, G.R. No. 254005, June 23, 2021.

⁴⁷ *Calaoagan v. People*, 850 Phil. 183, 194 (2019).

⁴⁸ *Briñas v. People*, supra note 46, at 10.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id. at 12.

⁵² Supra note 46.

⁵³ Id. at 10.

⁵⁴ See id. at 12.



In *Rosaldes v. People*⁵⁵ (*Rosaldes*), the accused, who was also a school teacher of the child victim, was found guilty of child abuse when she pinched her student on the thigh, held him in the armpits, threw him on the floor causing the child to hit a desk and lose consciousness, and held the child by the ears and pushed him again to the floor causing several injuries. The Court, while recognizing the right of a teacher to discipline his or her pupils, nevertheless convicted the accused of child abuse, after ruling that her acts were unnecessary and excessive. According to the Court, the nature of the acts committed effectively refuted the accused's claim that she merely intended to discipline the child.⁵⁶

On the other hand, in *Bongalon*, the Court ruled that therein respondent did not commit child abuse when he struck the back and slapped the face of a child. The Court noted, as follows:

Although we affirm the factual findings of fact by the RTC and the CA to the effect that the petitioner struck Jayson at the back with his hand and slapped Jayson on the face, we disagree with their holding that his acts constituted *child abuse* within the purview of the above-quoted provisions. The records did not establish beyond reasonable doubt that his laying of hands on Jayson had been intended to debase the "intrinsic worth and dignity" of Jayson as a human being, or that he had thereby intended to humiliate or embarrass Jayson. The records showed the laying of hands on Jayson to have been done at the spur of the moment and in anger, indicative of his being then overwhelmed by his fatherly concern for the personal safety of his own minor daughters who had just suffered harm at the hands of Jayson and Roldan. With the loss of his self-control, he lacked that specific intent to debase, degrade or demean the intrinsic worth and dignity of a child as a human being that was so essential in the crime of *child abuse*.

It is not trite to remind that under the well-recognized doctrine of *pro reo* every doubt is resolved in favor of the petitioner as the accused. Thus, the Court should consider all possible circumstances in his favor.⁵⁷

Applying the foregoing guidelines and case law to the present case, it cannot also be said that Pascua is guilty of child abuse under Section 3(b)(2) of R.A. 7610. Here, Pascua pinched the side, tapped the shoulder, and slapped the back of DDD. All these, like *Bongalon*, were done in the spur of a moment and in order to discipline a child. Unlike *Rosaldes*, the degree of punishment imposed by Pascua against her student and nephew, DDD, was neither excessive nor disproportionate to correct the misbehavior committed by the latter. Accordingly, the Court can certainly give credence to Pascua's claim that she merely intended to discipline, not humiliate or embarrass DDD.

Slight Physical Injuries

Although the Information charged Pascua with violation of Section 10(a) of R.A. 7610, a finding of guilt for the lesser offense of slight physical injuries

⁵⁵ 745 Phil. 77 (2014).

⁵⁶ See *id.* at 86.

⁵⁷ *Bongalon v. People*, *supra* note 26, at 20-21. Citation omitted.



may be made considering that the latter offense is necessarily included in the former.⁵⁸

In order to sustain a conviction under Section 10(a) of R.A. 7610, the following essential elements must be established: (1) the victim's minority; (2) the acts constituting abuse allegedly committed by the accused against the child; and (3) that these acts are punishable under R.A. 7610.⁵⁹ As discussed above, child abuse includes the infliction of physical injuries and maltreatment against the child victim.

On the other hand, the infliction of slight physical injuries is punishable pursuant to Article 266(1) of the Revised Penal Code, to wit:

ART. 266. *Slight physical injuries and maltreatment.* — The crime of slight physical injuries shall be punished:

1. By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period;

x x x x

In *Bongalon*, the Court, speaking through the former Chief Justice Lucas P. Bersamin, also found the accused therein liable for slight physical injuries only, instead of violation of Section 10(a) of R.A. 7610, after considering that the prosecution failed to establish that the accused had specific intent to debase, degrade, or demean the intrinsic worth and dignity of the child victim therein.⁶⁰

Similarly, in *Calaoagan v. People*⁶¹ (*Calaoagan*), a case penned by the esteemed Chief Justice Alexander G. Gesmundo, the Court also found the accused therein liable for slight physical injuries only instead of child abuse, since the element of intent to debase, degrade or demean the child victim was lacking.⁶²

In the same vein, while the injuries inflicted by Pascua here did not rise to the level of physical abuse or maltreatment that is punishable under Section 10(a) of R.A. 7610, considering that DDD's injuries required five (5) days of medical attention,⁶³ Pascua is not without criminal liability and should be held liable for slight physical injuries.

While Pascua's right to discipline her student and nephew is not denied, the infliction of physical injuries on the person of DDD is prohibited by no less than the Family Code, which expressly bans the infliction of corporal

⁵⁸ See *Peñaranda v. People*, G.R. No. 214426, December 2, 2021, p. 7.

⁵⁹ *Malcampo-Repollo v. People*, G.R. No. 246017, November 25, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocsfriendly/1/67548>>.

⁶⁰ *Bongalon v. People*, supra note 26, at 20-21.

⁶¹ Supra note 47.

⁶² Id. at 198.

⁶³ See id.



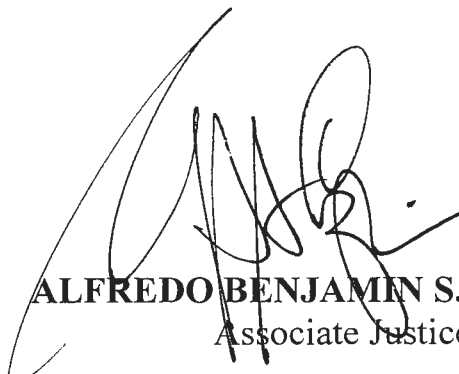
punishment by a school administrator, teacher or individual engaged in childcare exercising special parental authority (*i.e., in loco parentis*).⁶⁴ This ruling is affirmed by the Court in *Rosaldes*, which, as mentioned above, also involved a school teacher and a student victim.

The penalty for slight physical injuries is *arresto menor*, which ranges from one (1) day to thirty (30) days of imprisonment. Considering that there are no mitigating or aggravating circumstances, Pascua shall suffer the straight penalty of *arresto menor* for twenty (20) days.

Under Article 2219(1) of the Civil Code, moral damages may be recovered in a criminal offense resulting in physical injuries. Thus, following the Court's ruling in *Bongalon* and *Calaoagan*, where, as mentioned, both accused therein were also held liable for slight physical injuries instead of child abuse, Pascua is also ordered to pay DDD moral damages amounting to ₱5,000.00 for the injuries caused to the latter.

WHEREFORE, the Court **SETS ASIDE** the Decision dated January 30, 2018 and Resolution dated July 19, 2018 of the Court of Appeals in CA-G.R. CR No. 38860 and **ENTERS** a new judgment: (a) finding petitioner Luzviminda Pascua y Bulan **GUILTY** beyond reasonable doubt of the crime of **SLIGHT PHYSICAL INJURIES** under Article 266(1) of the Revised Penal Code. She is **SENTENCED** to suffer the penalty of twenty (20) days of *arresto menor* and to pay DDD the amount of ₱5,000.00 as moral damages, with legal interest at the rate of six percent (6%) *per annum* from the finality of judgment until full payment.

SO ORDERED.




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁶⁴ ART. 233. The person exercising substitute parental authority shall have the same authority over the person of the child as the parents.

In no case shall the school administrator, teacher or individual engaged in child care and exercising special parental authority, inflict corporal punishment upon the child. (n)

WE CONCUR:


SAMUEL H. GAERLAN
 Associate Justice

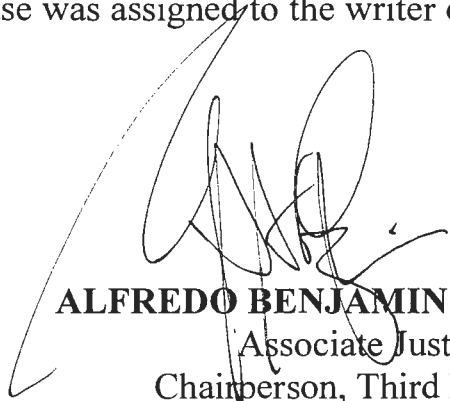

JHOSEPH V. LOPEZ
 Associate Justice


JAPAR B. DIMAAMPAO
 Associate Justice


MARIA FILOMENA D. SINGH
 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.


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII 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 assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
 Chief Justice