



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

XXX257134,<sup>1</sup>

*Petitioner,*

G.R. No. 257134

Present:

- versus -

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

PEOPLE OF THE PHILIPPINES,  
*Respondent.*

Promulgated:

FEB 06 2023

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DECISION

**KHO, JR., J.:**

Assailed in this Petition for Review on *Certiorari*<sup>2</sup> are the Decision<sup>3</sup> dated September 3, 2019 and the Resolution<sup>4</sup> dated July 1, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 42290, which affirmed with modification the Judgment<sup>5</sup> dated September 3, 2018 of the Regional Trial

<sup>1</sup> The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family, household members, and/or accused, shall be withheld pursuant to RA 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, 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" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014] [Per J. Perlas-Bernabe, Second Division], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013] [Per J. Brion, Second Division]. 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.)

<sup>2</sup> *Rollo*, 12-99.

<sup>3</sup> *Id.* at 108-132. Penned by Associate Justice Priscilla J. Baltazar-Padilla (+) (former member of the Court) with Associate Justices Maria Elisa Sempio Diy and Ronaldo Roberto B. Martin, concurring.

<sup>4</sup> *Id.* at 135-136. Penned by Associate Justice Ronaldo Roberto B. Martin with Associate Justices Maria Elisa Sempio-Diy and Rafael Antonio M. Santos, concurring.

<sup>5</sup> *Id.* at 229-243. Penned by Judge Elizabeth Yu Guray.

ALB

Court of ██████ City, Branch 202 (RTC) in Crim. Case Nos. 15-0425 & 0427, and found petitioner XXX257134 (petitioner) guilty beyond reasonable doubt of: (a) Acts of Lasciviousness under Article 336 of the Revised Penal Code (RPC), in relation to Section 5 (b) of Republic Act No. (RA) 7610;<sup>6</sup> and (b) Rape under Article 266-A of the RPC, as amended by RA 8353,<sup>7</sup> in relation to Section 5 (b) of RA 7610.

### The Facts

Petitioner stands charged with the crimes of: (1) Acts of Lasciviousness under Article 336 of the RPC, in relation to Section 5 (b) of RA 7610; and (2) Rape under Article 266-A of the RPC, as amended by RA 8353, in relation to Section 5 (b) of RA 7610, the accusatory portions of the two (2) criminal Informations read as follows:<sup>8</sup>

#### Crim. Case No. 15-0425

[Acts of Lasciviousness in relation to Sec. 5 (b), RA 7610]

That sometimes (sic) in the year 2011, in the City of ██████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle of the complainant, with lewd design, and with intent to abuse and to gratify his sexual desire, did then and there willfully, unlawfully and feloniously commit an act of lasciviousness on [AAA257134], **Six (6) years old**, by then and there making him hold his penis and by directing him to perform the act of masturbation on him, against his will and without his consent.

CONTRARY TO LAW.<sup>9</sup>

#### Crim. Case No. 15-0427

[Rape in relation to Sec. 5 (b), RA 7610]

That on or about the 14<sup>th</sup> day of June 2014, in the City of ██████, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle of complainant, with lewd design, did then and there willfully, unlawfully and feloniously commit an act of sexual assault on [AAA257134], **Nine (9) years old**, by then and there inserting his penis into his anal orifice, against his will and without his consent.

CONTRARY TO LAW.<sup>10</sup>

<sup>6</sup> Entitled "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.

<sup>7</sup> Entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES," approved on September 30, 1997.

<sup>8</sup> *Rollo*, p. 137.

<sup>9</sup> *Id.* at 109, 137, and 158.

<sup>10</sup> *Id.* at 109, 137, and 157.

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On arraignment, petitioner pleaded not guilty to the crimes charged. Trial on the merits ensued.

The prosecution alleged that victim AAA257134, a minor, is petitioner's nephew. Petitioner, the adopted brother<sup>11</sup> of AAA257134's mom, does not live with AAA257134 but would often go to their house in the City of ██████. When AAA257134 took the witness stand, he testified that he was molested by his uncle around 200 times which started when he was still six (6) years old. Particularly, on the night of his seventh birthday, petitioner made him touch his penis and shake it up and down.<sup>12</sup> (subject of **Crim. Case No. 15-0425**)

Another incident narrated by AAA257134 transpired on June 14, 2014.<sup>13</sup> According to AAA257134, after he attended a choir practice, he went to and played at the park together with petitioner, his cousin, and two (2) nannies. They then went home to have dinner; after which, AAA257134 took a shower to get ready for bed and stayed in the same room with petitioner, his cousin, and the nannies. As soon as the two (2) nannies left and upon finding that AAA257134's cousin was already asleep, petitioner locked the room and held AAA257134's wrist and made him hold his penis in an up and down motion. Petitioner then tried to put his penis into AAA257134's mouth, but the latter resisted. Petitioner also tried to insert his penis into AAA257134's anal orifice while they were both lying sideways. According to AAA257134, he felt pain and itchiness when petitioner slightly inserted his penis into his anus. The said scenario repeatedly happened on the same night until AAA257134's mother arrived. Petitioner authoritatively told AAA257134 not to tell anyone.<sup>14</sup> However, the following day, AAA257134 told his mother what petitioner has been doing to him.<sup>15</sup> (subject of **Crim. Case No. 15-0427**)

AAA257134 further testified that he did not readily report to his mother the bestial acts committed by his uncle against him out of fear. Every after an incident of molestation, AAA257134 would get sores in his anus and his mom would just put medicine on it and he would be relieved of pain and itchiness. Upon learning what AAA257134 suffered under the hands of petitioner, AAA257134's mom reported the same to the Women and Children Protection Desk. AAA257134's mom then filed a complaint against petitioner.<sup>16</sup> A Medico-Legal Report was later presented by the prosecution which however showed no traces of abrasion or laceration.<sup>17</sup>

In his defense, petitioner presented a number of witnesses including his own mother and the nannies of AAA257134. Petitioner's mother belied

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<sup>11</sup> Id. at 139.

<sup>12</sup> See id. at 110.

<sup>13</sup> "June 24, 2014" in the CA Decision; id.

<sup>14</sup> See id. at 110 and 138.

<sup>15</sup> Id. at 249.

<sup>16</sup> Id. at 111.

<sup>17</sup> Id. at 116.

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AAA257134's allegation that the former frequented their house and claimed that petitioner would only go there on family affairs or upon request of AAA257134's mom. She also testified that there was no occasion that petitioner was left alone with AAA257134 as the latter was always in the company of his nanny.<sup>18</sup>

AAA257134's nannies, meanwhile, uniformly testified that there was no instance that AAA257134 was left alone with petitioner as either they or AAA257134's mother were with him all the time. All three (3) of the nannies contradicted the charge of rape against petitioner claiming that if there was such an incident, they would have witnessed it. They likewise mentioned that AAA257134 had the propensity to lie by making stories which often result to them being scolded by AAA257134's mother.<sup>19</sup>

Petitioner, for his part, interposed the defense of denial and alibi. He belied the claim that he frequented the house of AAA257134 as he only went there on special occasions. He further averred, among others, that he could not have possibly committed the acts imputed against him as AAA257134 was never left alone to his care. Petitioner even insinuated that AAA257134 might have a grudge against him because he would always side with AAA257134's cousin whenever they would have fights.<sup>20</sup> Lastly, petitioner argued that the Medico-Legal Report submitted by the prosecution shows no traces of abrasion or laceration in AAA257134's anus, thus, negating the commission of sexual assault.<sup>21</sup>

### The RTC Ruling

In a Judgment<sup>22</sup> dated September 3, 2018, the RTC found petitioner guilty beyond reasonable doubt of the following: (a) in **Crim. Case No. 15-0425**, for Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of RA 7610 for which he was sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to fourteen (14) years, four (4) months and one (1) day of *reclusion temporal*, as maximum, and ordered to pay AAA257134 ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages; and (b) in **Crim. Case No. 15-0427**, for Rape under Article 266-A of the RPC, as amended by RA 8353 in relation to Section 5 (b) of RA 7610 for which petitioner was sentenced to suffer the penalty of imprisonment for an indeterminate period of ten (10) years of *prision mayor*, as minimum, to seventeen (17) years and one (1) day of *reclusion temporal*, as maximum, and ordered to indemnify AAA257134 in the amount of ₱75,000.00, another ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

<sup>18</sup> Id. at 111.

<sup>19</sup> Id. at 111-112.

<sup>20</sup> Id. at 112 and 143-144.

<sup>21</sup> Id. at 46-49 and 117-180.

<sup>22</sup> Id. at 137-151. Docketed as Crim Case Nos. 15-0425 and 0427, and penned by Judge Elizabeth Yu Guray.

Finally, the RTC imposed on all monetary awards interest at the legal rate of six percent (6%) per annum from the date of finality of its judgment until fully paid.<sup>23</sup>

In so ruling, the RTC found the prosecution's evidence to be sufficient in establishing the guilt of the accused beyond reasonable doubt. It maintained that there is no reason to doubt AAA257134's credibility as his testimony is consistent, candid, and straightforward as against petitioner's bare denial and alibi. Further, AAA257134's credibility survived strict scrutiny by the court when AAA257134 positively identified petitioner as the perpetrator of the crime and when AAA257134 testified with specificity what transpired between them. Lastly, the RTC noted that AAA257134's revelation that he had been raped, coupled with his submission to a medical examination and willingness to undergo public trial at a young age cannot be so easily dismissed as a mere concoction or tell-tale.<sup>24</sup>

Aggrieved, petitioner appealed<sup>25</sup> to the CA.

### The CA Ruling

In a Decision<sup>26</sup> dated September 3, 2019, the CA affirmed the RTC ruling with the following modifications: (a) in **Crim. Case No. 15-0425**, petitioner was found guilty of the crime of Child Abuse and was sentenced to suffer the indeterminate penalty of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months, and ten (10) days of *reclusion temporal*, as maximum, and to pay the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages; and (b) in **Crim. Case No. 15-0427**, petitioner was found guilty of the crime of Qualified Rape through Sexual Assault and was sentenced to suffer the penalty of imprisonment for an indeterminate period of ten (10) years of *prision mayor*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, and to pay the amount of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. All the damages awarded are to earn interest at the rate of six percent (6%) per annum.<sup>27</sup>

Here, the CA maintained that the claim of petitioner that AAA257134's statements are replete of discrepancies deserves scant consideration. It explained that courts expect minor inconsistencies when a child-victim narrates the details of a harrowing experience like rape. Such inconsistencies on minor details are in fact badges of truth, candidness, and the fact that the witness is unrehearsed. Hence, the alleged inconsistencies in the victim's

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<sup>23</sup> Id. at 151.

<sup>24</sup> See id. at 147-151.

<sup>25</sup> See Appellant's Brief dated January 10, 2019; id. at 152-226.

<sup>26</sup> Id. at 108-133.

<sup>27</sup> Id. at 131-132.

testimony regarding the exact time and date of the commission of the rape and lascivious conduct, respectively, does not make AAA257134's otherwise straightforward and coherent testimony, on material points, less worthy of belief.<sup>28</sup>

Petitioner thereafter filed a Motion for Reconsideration<sup>29</sup> which was denied by the CA in a Resolution<sup>30</sup> dated July 1, 2021. Hence, this petition.

### **The Issue Before the Court**

The issue for the Court's resolution is whether the CA erred in affirming the RTC Judgment finding petitioner guilty of the crimes charged.

### **The Court's Ruling**

The petition is without merit.

Preliminarily, it must be stressed that findings of fact by the trial court, when affirmed by the CA, is accorded great weight and respect as trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying.<sup>31</sup> In this case, however, the defense did not adduce substantial evidence plausible enough for the Court to depart from the factual findings of the courts *a quo*. As such, the Court gives full weight to their finding that petitioner is guilty beyond reasonable doubt of the crimes charged, as will be explained below.

The Court, at the onset, notes that although most of the existing jurisprudence on rape (and acts of lasciviousness) involves women as victims,<sup>32</sup> this does not escape the reality that said crime can likewise be committed against a man, a minor at that, as in this case.

The essential elements in the prosecution for Rape through Sexual Assault under paragraph 2, Article 266-A of the RPC are: (1) that the offender commits an act of sexual assault; (2) that the act of sexual assault is committed by inserting his penis into another person's mouth or anal orifice or by inserting any instrument or object into the genital or anal orifice of another person; and (3) that the act of sexual assault is accomplished by using force

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<sup>28</sup> See *id.* at 115-131.

<sup>29</sup> *Id.* at 293-349.

<sup>30</sup> *Id.* at 135-136.

<sup>31</sup> *People v. Aguilar*, 565 Phil. 233, 247-248 (2007) [Per J. Chico-Nazario, Third Division].

<sup>32</sup> See *Ricalde v. People*, 751 Phil. 793, 815 (2015) [Per J. Leonen, Second Division].

or intimidation, among others.<sup>33</sup> This shall be qualified pursuant to Article 266-B of the RPC if the victim is under 18 years of age and the offender is, inter alia, a relative by consanguinity or affinity within the third civil degree of the victim.<sup>34</sup>

On the other hand, the elements of Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 of RA 7610 are: (1) the offender commits any act of lasciviousness or lewdness; (2) it is done by using force or intimidation, or when the offended party is deprived of reason or otherwise unconscious; or when the offended party is under 12 years of age; and (3) the offended party is another person of either sex.<sup>35</sup> In *Barona v. People*,<sup>36</sup> the term “lewd” was defined as “obscene, lustful, indecent or lecherous. It signifies that form of immorality which has relation to moral impurity or that which is carried in a wanton manner.”<sup>37</sup>

Guided by the foregoing, the Court rules that the prosecution has sufficiently established the foregoing elements of Rape through Sexual Assault under paragraph 2, Article 266-A of the RPC. *First*, AAA257134 positively identified petitioner as the perpetrator of the crime charged. *Second*, AAA257134 narrated that on June 14, 2014, petitioner repeatedly abused him by inserting his penis into his anal orifice. AAA257134 recounted that on that night, he was lying side by side with petitioner when the latter turned him around and pulled down his pants just exposing the butt.<sup>38</sup> While in that position, petitioner slightly inserted his penis into AAA257134’s anus which made the latter feel pain and itchiness.<sup>39</sup> On cross-examination, AAA257134 further testified that petitioner also made him stand bending over while shoving his penis into his butt.<sup>40</sup> *Third*, besides petitioner exercising moral ascendancy over AAA257134, him being his “uncle,” he also ordered AAA257134 not to tell anyone about the incident. The pertinent portions of AAA257134’s testimony are quoted below:<sup>41</sup>

*Sinumpaang Salaysay* dated June 26, 2013 marked as Exhibit “A”

[T]: So what happened in June 14, 2014?

[S]: Again, **he made me stand bending over and he went behind and shoved his penis into my butt** and he also again tried to put his penis into my mouth.

<sup>33</sup> See *People v. Caoili*, 815 Phil. 839, 883 (2017) [Per J. Tijam, *En Banc*]; and *People v. Alfredo*, 653 Phil. 435, 451-452 (2010) [Per J. Velasco, Jr., First Division].

<sup>34</sup> See *People v. Comboy*, 782 Phil. 187, 197-198 (2016) [Per J. Perlas-Bernabe, First Division].

<sup>35</sup> See *People v. Jugdon, Jr.*, G.R. No. 242882, September 9, 2020 [Per J. Delos Santos, Second Division].

<sup>36</sup> See G.R. No. 249131, December 6, 2021 [Per J. Carandang, Third Division].

<sup>37</sup> *Id.*, citing *People v. Egan*, 432 Phil. 74, 84 (2002) [Per J. Bellosillo, Second Division].

<sup>38</sup> *Rollo*, p. 139.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 41-44.

*Sinumpaang Salaysay* dated August 19, 2014 marked as Annex "A" of Exhibit "E"

[T]: And then what happened next?

[S]: I heard Tito [REDACTED] stand up and he locked the door. I was lying on my side my face away from him, pretending that I was fast asleep.

[T]: And then what happened next?

[S]: He went back beside me on the bed, and I can feel him moving. And then he wrapped his arms around me pinning me down while he pulled my pajama pants down.

[T]: How did you feel when he was doing this?

[S]: My heart was beating so fast I was afraid I could not say anything. His arms were too heavy on my body. It has been a while since he had (sic) did this to me that I thought he wouldn't do it anymore.

[T]: And then what happened next?

[S]: **He started to insert his penis on my butt, his hands was (sic) on the rest of his penis moving back and forth while some of it was inserting back and forth to my butt.**

[T]: How did you feel in your butt when he was doing this?

[S]: It was painful.

[T]: And then what happened?

[S]: He carried me and turned me on my back, with my face on the bed. The (sic) **he lifted me on my stomach so that my butt would be raised, and he inserted it again to me and he went up and down again.**

Transcript of Stenographic Notes dated February 10, 2016:

Q: So what were you doing on that day?

A: Should I start with the beginning of that day?

Q: Yes.

A: So the beginning of the day, I was in a choir practice with my baby cousin [REDACTED]. After that, I went to the park with him and then yeah my uncle was also there with me with my cousin and two yayas, my yaya and my cousin's yaya. We play there for a while then we went back and then my uncle cooked burger steak for dinner with mushroom sauce. I remember. After that I took a shower while my Ate [REDACTED], that is my yaya, was watching me. And, then I went to the room because it was already time to sleep. Then my uncle had a massage from my Ate [REDACTED] because usually before he sleeps he gets a massage from my Ate [REDACTED]. And, then after that Ate [REDACTED] and Ate [REDACTED], the Ate of my cousin [REDACTED], left the room because they trusted my uncle with my cousin and I. Afterwards when they left he looked (sic) the room. My cousin was already asleep and I was about to sleep already. Then after that once again he made me touch his penis again and he made me shake it. And, after that **he carried me and sit down on it and even tried to shove it into my mouth but I resisted, ma'am.**



In insisting his innocence, petitioner posited that AAA257134's testimony are replete with material inconsistencies given AAA257134's narration of different versions as to how he was sexually assaulted by petitioner. Moreover, petitioner questioned the time said sexual assault was committed. He argued that AAA257134 initially claimed that the incident happened at around 5:30 p.m. on June 14, 2014. However, after petitioner allegedly proved the impossibility of committing the same at said time, AAA257134 conveniently modified his testimony to the effect that the petitioner committed the dastardly act at nighttime instead.

The Court is not convinced.

Contrary to the view of petitioner, the Court finds no inconsistency in the testimony of AAA257134. That there are different versions as to how AAA257134 was sexually assaulted in just one night is not far removed from happening. As alleged by AAA257134, he was repeatedly abused by petitioner on the night of June 14, 2014, hence, the varied narration. In light of this, petitioner's defense of alleged material discrepancy on AAA257134's testimony which purportedly weigh heavily on his credibility deserves scant consideration. On this score, it is worth emphasizing that the "courts expect minor inconsistencies when a child-victim narrates the details of a traumatic experience."<sup>42</sup> In fact, inconsistencies reflect candidness and the fact that the testimony was unrehearsed.<sup>43</sup>

Moreover, in *Ricalde v. People*,<sup>44</sup> the Court, through Justice Marvic M.V.F. Leonen, held that full weight and credit are accorded to testimonies of child victims as their "[y]outh and immaturity are generally badges of truth and sincerity."<sup>45</sup> Even more, a child witness' testimony is enhanced when the accusations are directed against a close relative given the social stigma it may cause their entire family.<sup>46</sup>

In this case, considering AAA257134's age, it is unlikely that he would fabricate a story which would bring to the fore his harrowing experience in the hands of his very own uncle; more so, subject him and his family to trauma and humiliation arising from the public trial concomitant to the resolution of the case.

Moreover, the Court agrees with the CA when it ruled that in rape cases, an accused may be convicted based on the lone and uncorroborated testimony of the victim, provided said testimony is clear, positive, convincing, and

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<sup>42</sup> *Fernandez v. People*, 843 Phil. 745, 752 (2018) [Per J. Leonen, Third Division].

<sup>43</sup> *People v. Salaver*, 839 Phil. 90, 104 (2018) [Per J. Del Castillo, First Division], citing *People v. Descartin*, 810 Phil. 881, 893 (2017) [Per J. Tijam, Third Division].

<sup>44</sup> 751 Phil. 793 (2015) [Third Division].

<sup>45</sup> *Id.* at 805, citing *People v. Olivia*, 616 Phil. 786, 792 (2009) [Per J. Nachura, Third Division].

<sup>46</sup> See *People v. Esperanza*, 453 Phil. 54 (2003) [Per C.J. Davide, Jr., *En Banc*].

consistent with human nature and the normal course of things.<sup>47</sup> Hence, petitioner's claim that the Medico-Legal Report revealed no evidence that AAA257134 suffered ano-genital injury or any sign of sexual abuse is of no moment.

As regards the charge for Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 of RA 7610, the prosecution likewise proved the concurrence of the above-enumerated elements. The testimony of AAA257134 revealed that petitioner started molesting him when he was six (6) years old. Particularly, during his seventh birthday, petitioner made AAA257134 touch his penis and shake it up and down inside a room where AAA257134 and his grandmother were asleep. Petitioner then left the room after.

Petitioner, nonetheless, questions his conviction for Acts of Lasciviousness due to the discrepancy in the year the act of molestation, as alleged in the information, was committed and thereafter proved on trial. According to petitioner, AAA257134 averred that he was molested in 2011 on his seventh birthday. Petitioner, however, argued that AAA257134's seventh birthday was in 2012, hence, the information failed to sufficiently inform him of the date of the commission of the crime.

This argument is untenable.

The CA, citing various jurisprudence, aptly explained that in rape cases, the exact date of commission of sexual abuse is inconsequential on the ground that it "is not a material ingredient of the said crime."<sup>48</sup> More importantly, petitioner did not deny that he was with AAA257134 on his seventh birthday. No sufficient proof was likewise offered showing the impossibility of committing the crime imputed against petitioner on said day. At this point, it is not amiss for the Court to point out that AAA257134 testified that petitioner started molesting him when he was six (6) years old and the incident that transpired on his seventh birthday is only one among the many abuses he experienced from petitioner.

In view of the foregoing discussions, the Court finds no reason to overturn the CA's findings, as there was no showing that it overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. Hence, petitioner's criminal liability in both **Crim. Case No. 15-0425** and **Crim. Case No. 15-0427** must be sustained.

Petitioner's criminal liability in both **Crim. Case No. 15-0425** and **Crim. Case No. 15-0427** having been established, the Court now goes to the

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<sup>47</sup> *People v. Alicante*, 388 Phil. 233, 249 (2000) [*Per Curiam, En Banc*].

<sup>48</sup> *Rollo*, p. 121, citing *People v. Cinco*, 622 Phil. 858 (2009) [*Per J. Chico-Nazario, Third Division*].

proper nomenclature of the crimes that he committed, the imposable penalties, and his civil liability *ex delicto*.

In *People v. Tulagan*<sup>49</sup> (*Tulagan*), the Court, through Justice Diosdado M. Peralta, threshed out the “applicable laws and [consequent penalties] for the crimes of acts of lasciviousness or lascivious conduct and rape by carnal knowledge or sexual assault, depending on the age of the victim, in view of the provisions of paragraphs 1 and 2 of Article 266-A and Article 336 of the [RPC], as amended by [RA] 8353 and Section 5(b) of [RA] 7610.”<sup>50</sup> For this purpose, *Tulagan* provided a comprehensive table stating the proper nomenclature of crimes involving sexual abuse against children, to wit:<sup>51</sup>

<b>Age of Victim:</b>	Under 12 years old or demented	12 years old or below 18, or 18 under special circumstances	18 years old and above
<b>Crime Committed:</b>			
Acts of Lasciviousness committed against children exploited in prostitution or other sexual abuse	Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of RA 7610: <i>reclusion temporal</i> in its medium period	Lascivious Conduct under Section 5 (b) of RA 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Not applicable
Sexual Assault committed against children exploited in prostitution or other sexual abuse	Sexual Assault under Article 266-A (2) of the RPC in relation to Section 5 (b) of RA 7610: <i>reclusion temporal</i> in its medium period	Lascivious Conduct under Section 5 (b) of RA 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Not applicable
Sexual Intercourse committed against children exploited in prostitution or other sexual abuse	Rape under Article 266-A (1) of the RPC: <i>reclusion perpetua</i> , except when the victim is below 7 years old in which case death penalty shall be imposed	Sexual Abuse under Section 5 (b) of RA 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Not applicable

<sup>49</sup> 849 Phil. 197 (2019) [*En Banc*].

<sup>50</sup> *Id.* at 248.

<sup>51</sup> *Id.* at 248-249.

FILE

Rape by carnal knowledge	Rape under Article 266-A (1) in relation to Article 266-B of the RPC: <i>reclusion perpetua</i> , except when the victim is below 7 years old in which case death penalty shall be imposed	Rape under Article 266-A (1) in relation to Article 266-B of the RPC: <i>reclusion perpetua</i>	Rape under Article 266-A (1) of the RPC: <i>reclusion perpetua</i>
Rape through Sexual Assault	Sexual Assault under Article 266-A (2) of the RPC in relation to Section 5 (b) of RA 7610: <i>reclusion temporal</i> in its medium period	Lascivious Conduct under Section 5 (b) of RA 7610: <i>reclusion temporal</i> in its medium period to <i>reclusion perpetua</i>	Sexual Assault under Article 266-A (2) of the RPC: <i>prision mayor</i>

Pursuant to *Tulagan*, the nomenclature of the crime that petitioner committed in **Crim. Case No. 15-0425** is “*Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of RA 7610*” which has the prescribed penalty of *reclusion temporal* in its medium period, *i.e.*, fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months. Taking into consideration the Indeterminate Sentence Law (ISL), as well as the absence of any modifying circumstances in this case, the minimum term of the imposable penalty should be taken from *reclusion temporal* in its minimum period, which has the range of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months; whereas the maximum term of the imposable penalty should be taken from the medium period of the prescribed penalty, which has the range of fifteen (15) years, six (6) months, and twenty (20) days to sixteen (16) years, five (5) months, and nine (9) days. Given the foregoing, the Court sentences petitioner to suffer the penalty of imprisonment for an indeterminate period of thirteen (13) years of *reclusion temporal*, as minimum, to sixteen (16) years of *reclusion temporal*, as maximum. Further, and in accordance with *Tulagan*,<sup>52</sup> petitioner should also pay AAA257134 the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages, all with legal interest of six percent (6%) per annum from finality of this ruling until full payment.

However, as regards **Crim. Case No. 15-0427**, there is a need to modify certain aspects of the CA ruling. *First*, it is well to point out that the CA found petitioner liable for *Qualified Sexual Assault*, due to the existence of the qualifying circumstance of minority (*i.e.*, AAA257134 was just nine [9] years

<sup>52</sup> See *id.* at 292.

old when the crime occurred) and relationship (*i.e.*, petitioner is AAA257134's "uncle"). However, while such minority and relationship were indeed alleged in the information, a closer perusal of the records would readily show that their relationship is neither by consanguinity nor by affinity; rather, petitioner is a mere adoptive uncle of AAA257134. In *Reyes v. Elquiero (Reyes)*,<sup>53</sup> the Court, through Justice Samuel H. Gaerlan, held that "[t]he legal relationship created by adoption extends only to the adopter and the adoptee." *Reyes* further reiterated the ruling in *Teotico v. Del Van Chan*<sup>54</sup> which declared that:

**The relationship established by the adoption, however, is limited to the adopting parent, and does not extend to his other relatives, except as expressly provided by law. Thus, the adopted child cannot be considered as a relative of the ascendants and collaterals of the adopting parents, nor of the legitimate children which they may have after the adoption, except that the law imposes certain impediments to marriage by reason of adoption. Neither are the children of the adopted considered as descendants of the adopter. The relationship created is exclusively between the adopter and the adopted, and do not extend to the relatives of either.**<sup>55</sup> (Emphasis supplied)

In light of this, the qualifying circumstance of relationship between petitioner and AAA257134 is absent. As such, the Sexual Assault committed by petitioner against AAA257134 is not in its qualified form, but merely in its simple form. Furthermore, pursuant to *Tulagan*, the proper nomenclature of the crime petitioner committed in **Crim. Case No. 15-0427** is *Sexual Assault under Article 266-A (2) of the RPC in relation to Section 5 (b) of RA 7610*, which has the prescribed penalty of *reclusion temporal* in its medium period, *i.e.*, fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months. Considering the provisions of the ISL, as well as the absence of any modifying circumstances in this case, the minimum term of the imposable penalty should be taken from *reclusion temporal* in its minimum period, which has the range of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months; whereas the maximum term of the imposable penalty should be taken from the medium period of the prescribed penalty, which has the range of fifteen (15) years, six (6) months, and twenty (20) days to sixteen (16) years, five (5) months, and nine (9) days. Given the foregoing, the Court sentences petitioner to suffer the penalty of imprisonment for an indeterminate period of thirteen (13) years of *reclusion temporal*, as minimum, to sixteen (16) years of *reclusion temporal*, as maximum. Further, and in accordance with *Tulagan*,<sup>56</sup> petitioner should also pay AAA257134 the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages, all with legal interest of six percent (6%) per annum from finality of this ruling until full payment.

<sup>53</sup> G.R. No. 210487, September 2, 2020 [Third Division].

<sup>54</sup> 121 Phil. 392 (1965) [Per J. Bautista Angelo, *En Banc*].

<sup>55</sup> *Id.* at 398; citation omitted.

<sup>56</sup> *People v. Tulagan*, *supra* note 49, at 292.

**ACCORDINGLY**, the petition is **DENIED**. The Decision dated September 3, 2019 and the Resolution dated July 1, 2021 of the Court of Appeals in CA-G.R. CR No. 42290 are hereby **AFFIRMED with MODIFICATIONS**, as follows:

1. In **Criminal Case No. 15-0425**, petitioner XXX257134 is found **GUILTY** beyond reasonable doubt of the crime of *Acts of Lasciviousness under Article 336 of the Revised Penal Code (RPC) in relation to Section 5 (b) of Republic Act No. (RA) 7610*. Petitioner is thus sentenced to suffer the penalty of imprisonment for an indeterminate period of thirteen (13) years of *reclusion temporal*, as minimum, to sixteen (16) years of *reclusion temporal*, as maximum, and to pay AAA257134 the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages.
2. In **Criminal Case No. 15-0427**, petitioner XXX257134 is found **GUILTY** beyond reasonable doubt of the crime of *Sexual Assault under Article 266-A (2) of the RPC in relation to Section 5 (b) of RA 7610*. Accordingly, petitioner is sentenced to suffer the penalty of imprisonment for an indeterminate period of thirteen (13) years of *reclusion temporal*, as minimum, to sixteen (16) years of *reclusion temporal*, as maximum, and to pay AAA257134 the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages.

All monetary awards shall earn legal interest at the rate of six percent (6%) per annum from finality of this Decision until fully paid.

**SO ORDERED.**



**ANTONIO T. KHO, JR.**

Associate Justice

**WE CONCUR:**



**MARVIC M.V.F. LEONEN**

Senior Associate Justice

Chairperson



**AMY C. LAZARO-JAVIER**

Associate Justice




**MARIO V. LOPEZ**

Associate Justice

  
**JHOSEP LOPEZ**  
Associate Justice

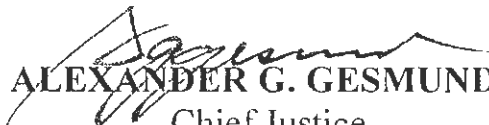
**ATTESTATION**

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, Second 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

