



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 7, 2020 which reads as follows:

“G.R. No. 250596 – ROLANDO ELIARES y POBLACION petitioner, versus PEOPLE OF THE PHILIPPINES, respondent. – The petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

After a careful review of the Petition¹ and its annexes and the issues submitted by the parties, the Court finds no error committed in the Court of Appeal’s (CA) Decision² dated May 31, 2019 in CA-G.R. CR No. 41152, which affirmed the Regional Trial Court’s (RTC) Judgment³ dated August 23, 2017 in Criminal Case No. Q-13-03984-CR. The facts, as borne out by the records, sufficiently support the conclusion that petitioner Rolando Eliares y Poblacion (petitioner) is indeed guilty of violating Section 3 (a) and (b)⁴ in relation to Section

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¹ *Rollo*, pp. 10-25.

² *Id.* at 29-42-a. Penned by Associate Justice Rodil V. Zalameda (now a member of this Court) with Associate Justices Fernando Lampas Peralta and Jhosep Y. Lopez, concurring.

³ *Id.* at 61-68. Penned by Presiding Judge Ma. Lourdes A. Giron.

⁴ **Section 3. Definition of Terms.**

(a) “Children” refers to person 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;

(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[.] Emphasis supplied.

10 (a)⁵ of Republic Act No. (RA) 7610, otherwise known as “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”

The prosecution was able to sufficiently prove all the elements⁶ of the offense charged, namely: (1) the minority of AAA,⁷ who at the time of the incident, was only five (5) years old, (2) the act constituting physical abuse committed by petitioner against AAA, *i.e.*, petitioner doused hot water on AAA, resulting to burns on his chest; and (3) the said act is clearly punishable under RA 7610.

Petitioner argues that the CA erred in convicting him of the offense charged. Citing *Bongalon v. People*,⁸ (*Bongalon*) he argues that the prosecution failed to prove beyond reasonable doubt his intent to debase, degrade, or demean the intrinsic worth and dignity of AAA as a human being. In his defense, he contends that he did not intentionally throw water on AAA. It just so happened that while he was pouring hot water into a cup, he noticed a small cockroach and threw the contents thereof in a small opening of the door of his house, thus the hot water merely accidentally hit AAA.⁹

Petitioner erroneously cited *Bongalon*. The facts in *Bongalon* are markedly different from this case. In *Bongalon*, the records showed the laying of hands of the accused on the victim 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

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⁵ **Section 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 to 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.

⁶ *Del Poso v. People*, G.R. No. 210810, December 7, 2016, 813 SCRA 436, 446-447.

⁷ The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act (RA) No. 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 No. 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], 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); *People v. XXX*, G.R. No. 235652, July 9, 2018, 871 SCRA 424.

⁸ G.R. No. 169533, March 20, 2013, 694 SCRA 12, 22.

⁹ *Rollo*, p. 32

his own minor daughters who had just suffered harm at the hands of the minor victim. 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 is so essential in the crime of *child abuse*.¹⁰

However, in this case, petitioner's arguments and defenses are belied by the testimonies of the eyewitnesses, as well as the victim himself. It is clear that he did not just accidentally throw hot water on AAA. Neither was said act done by petitioner at the spur of the moment as in *Bongalon*. It was established by the testimonies of prosecution witnesses Marcela Panting¹¹ (Marcela) and Paloma Basco that AAA and his friends were playing outside the house of petitioner.¹² After petitioner scolded his youngest child, petitioner, while holding a thermos flask, turned his ire on the other children.¹³ One of the eyewitnesses, Marcela testified that she heard petitioner shouting to the children, "*mga putang-ina ninyo magsialis kayo sa tagiliran ng bahay ko, bubuhusan ko kayo ng tubig na mainit.*"¹⁴ All the eyewitnesses were consistent in saying that they saw petitioner douse hot water on AAA.¹⁵ Furthermore, while in the barangay, petitioner uttered the following words, "*Yan yang batang 'yan, binigyan ko lang ng leksiyon kasi mga makukulit.*"¹⁶ In fact, Charito Savillona,¹⁷ the assigned women's desk officer at the time this incident was reported, testified that petitioner admitted to her that he doused hot water on AAA.¹⁸ Also, as correctly ruled by the CA, while there were imperfections as to some details in AAA's testimony, AAA remained consistent as to the material points thereof, that is, the identity of the person responsible for his injuries, herein petitioner.¹⁹

Moreover, his act of pouring water on AAA cannot even be considered as a mere act of disciplining the child victim. In *Torres v. People*²⁰ where the petitioner therein hid behind the defense that he was merely disciplining the child that he whipped, the Court held that although it is true that not every instance of laying of hands on the child constitutes child abuse, petitioner's intention to debase, degrade, and demean the intrinsic worth and dignity of a child can be inferred from the manner in which he committed the act complained of.

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¹⁰ Supra note 8.

¹¹ Spelled "Palting" in some parts of the *rollo*.

¹² *Rollo*, pp. 62-63.

¹³ Id. at 36.

¹⁴ Id. at 62-63.

¹⁵ Id. at 36.

¹⁶ Id. at 62.

¹⁷ Spelled "Savellona" in some parts of the *rollo*.

¹⁸ *Rollo*, p. 64.

¹⁹ Id. at 37.

²⁰ G.R. No. 206627, January 18, 2017, 814 SCRA 547, 559.

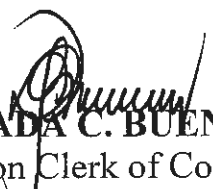
To note, petitioner's prior act of shouting expletives at AAA, coupled with his act of pouring hot water on AAA, as well as the words he uttered after the incident without any trace of remorse at all, obviously show his intent to debase, degrade, or demean the intrinsic worth and dignity of AAA as a human being. Indeed, if the only intention of petitioner were to discipline AAA, he could have resorted to other less violent means and exercised restraint and self-control, instead of pouring hot water on AAA. Petitioner, a mere neighbor of AAA, does not even have any disciplinary authority over AAA.

Finally, the consequences of petitioner's felonious act is clearly shown by the medico-legal certificate showing that AAA suffered from burns on his chest. Also, BBB, grandmother of AAA, testified that after the incident, AAA became fearful and nervous; sometimes even "tulala."²¹ Thus, petitioner's argument that the prosecution was not able to show his intent to debase, degrade, or demean the intrinsic worth and dignity of AAA as a human being is clearly without merit. Surely, this unfortunate incident would have a lasting prejudicial effect on AAA's social, moral, and emotional development.

WHEREFORE, premises considered, the petition is **DENIED**. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated May 31, 2019 of the Court of Appeals in CA-G.R. CR No. 41152. The Decision finding petitioner **ROLANDO ELIARES y POBLACION** guilty beyond reasonable doubt for violating Section 3 (a) and (b) in relation to Section 10 (a) of Republic Act No. 7610 is **AFFIRMED in toto**.

SO ORDERED. *Peralta, C.J., no part; Carandang, J., designated Additional Member per Raffle dated June 22, 2020.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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²¹ *Rollo*, p. 62.



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