



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 17 June 2020 which reads as follows:*

“G.R. No. 241340 (*Jeffrey Tambuli y Quiohiro v. People of the Philippines*). – After a perusal of the records of the case, the Court resolves to **DENY** the instant petition and **AFFIRM** the Decision<sup>1</sup> dated 30 January 2018 and the Resolution<sup>2</sup> dated 31 July 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 37374 with **MODIFICATION** as to the amount of civil liabilities, for failure of petitioner Jeffrey Tambuli y Quiohiro to show that the CA committed any reversible error in finding him guilty beyond reasonable doubt of the crime of Acts of Lasciviousness in relation to Section 5 (b) of Republic Act No. 7610.

As correctly ruled by the CA, the prosecution was able to establish beyond reasonable doubt all the elements<sup>3</sup> of the crime charged. Petitioner’s act of mashing AAA’s breasts amounted to lascivious conduct considering that it was committed on a child less than twelve (12) years old, and through intimidation.

There is no reason to deviate from the findings of the CA that the purported inconsistency dwells too far from being a material matter.<sup>4</sup> It must be stressed that the basis of AAA’s identification of herein petitioner as

<sup>1</sup> *Rollo*, pp. 33-49. Penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Rosmari D. Carandang (now a member of the Court) and Jane Aurora C. Lantion, concurring.

<sup>2</sup> *Id.* at 51-52.

<sup>3</sup> Under Section 5(b), Article III of Republic Act No. 7610, the element are as follows: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child, whether male or female, is below 18 years of age (*People of the Philippines v. Samuel “Tiw-Tiw” Sanico*, 741 Phil. 356 [2014]). While, the elements of acts of lasciviousness under Article 336 of the RPC are as follows: (1) that the offender commits any act of lasciviousness or lewdness; (2) that it is done under any of the following circumstances: (a) by using force or intimidation; or (b) when the offended party is deprived of reason or otherwise unconscious; or (c) by means of fraudulent machination or grave abuse of authority; and (d) when the offended party is under 12 years of age; (3) that the offended party is another person of either sex (*Nonito Imbo y Gamores v. People of the Philippines*, 758 Phil. 430 [2015]).

<sup>4</sup> See *rollo*, p. 39.

the one who molested her was not only due to the tattoo she remembered, but also his facial appearance. It is noteworthy to state that in AAA's direct testimony in court, she recognized petitioner as the perpetrator, because she was standing face-to-face with him. Thus, she had an unobstructed view of herein petitioner. AAA's categorical and positive identification of petitioner prevails over his defense of denial. Denial is inherently a weak defense which cannot outweigh the positive testimony. As between a categorical statement that has the earmarks of truth on [the] one hand and bare denial on the other, the former is generally held to prevail.<sup>5</sup>

However, in accordance with the prevailing jurisprudence,<sup>6</sup> We modify the civil liabilities of herein petitioner and is hereby ordered to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages, plus legal interest at the rate of six percent (6%) per annum from the finality of this judgment until full payment.

**SO ORDERED.**" (Gaerlan, J., designated Additional Member per Special Order No. 2780 dated May 11, 2020.)

Very truly yours,

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court

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<sup>5</sup> *People of the Philippines v. Oscar Mat-an y Escad*, G.R. No. 215720, 21 February 2018, 856 SCRA 282, 295.

<sup>6</sup> See *People v. Tulagan*, G.R. No. 227363, 12 March 2019.

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\*JEFFREY Q. TAMBULI (reg)  
Petitioner  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 5  
1000 Manila  
Crim. Case No. 13-301365

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Supreme Court, Manila

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\*with copy of CA Decision dated 30 Jan 2018  
*Please notify the Court of any change in your address.*  
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