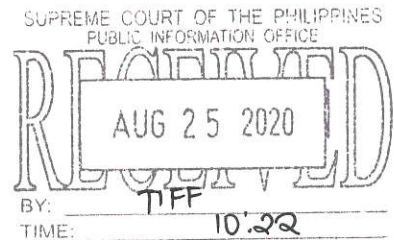




Republic of the Philippines  
Supreme Court  
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated March 2, 2020 which reads as follows:*

**“G.R. No. 249036 - SONNY BOY AGUSTIN Y FRANCISCO @ “HANNA” vs. PEOPLE OF THE PHILIPPINES**

**Antecedents**

Petitioner Sonny Boy Agustin y Francisco alias “Hanna” was charged with acts of lasciviousness under Article 336 of the Revised Penal Code (RPC) in relation to Section 5(b), Article III of Republic Act No. 7610<sup>1</sup> (RA 7610), viz.:

That on or about the 17<sup>th</sup> day of February 2016, at about 9:00 in the morning, in [REDACTED] San Antonio, Nueva Ecija, and within the jurisdiction of this Honorable Court, above-named accused, with intent to gratify his sexual desire, did then and there, willfully, unlawfully and feloniously sexually abuse [AAA],<sup>2</sup> 7 years old[,] by repeatedly holding his penis and [placing] the same four times [into] his mouth, against his will, thereby [abusing] his minority which diminished his dignity as a human being.

CONTRARY TO LAW.<sup>3</sup>

- over – thirteen (13) pages ...

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<sup>1</sup> Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, Republic Act No. 7610, June 17, 1992.

<sup>2</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

<sup>3</sup> *Rollo*, p. 32; See also *rollo*, p. 62.

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When arraigned, petitioner pleaded not guilty.<sup>4</sup> During the pre-trial, both the prosecution and the defense stipulated that the victim was a minor at the time the alleged offense was committed. Trial ensued.<sup>5</sup>

### *Version of the Prosecution*

Seven (7) year-old AAA and his mother BBB lived in [REDACTED], San Antonio, Nueva Ecija. Petitioner was their neighbor. AAA called him “Mommy Hannah.”<sup>6</sup>

AAA was born on February 10, 2009.<sup>7</sup> He was seven (7) years old on February 17, 2016, when petitioner invited him to the latter’s apartment so he could take a bath before going to school. He readily accepted the invitation since his mother was home cooking breakfast.<sup>8</sup>

In the apartment, while petitioner was bathing AAA, the former suddenly held and masturbated the boy’s penis. It was painful. Petitioner assured the boy though that he was only cleaning his penis. Then, petitioner sucked the boy’s penis with his mouth four (4) times. He told the boy he would often do that to make sure that the boy’s genitals stay clean.<sup>9</sup>

Immediately after the incident, BBB saw her son scared and crying. AAA intimated to her that petitioner repeatedly held and sucked his penis four (4) times. When BBB checked the boy’s penis, she noticed it was swollen.<sup>10</sup> Wasting no time, they immediately went to the San Antonio Police Station to report the incident.<sup>11</sup> They also went to a hospital in Cabanatuan City, Nueva Ecija for AAA’s medical examination.<sup>12</sup>

In her Medico Legal Report dated February 17, 2016,<sup>13</sup> Dr. Charissa Dysangco stated that other than two (2) petechiae or red spots on AAA’s penis, there was “no evident injury at the time of the examination but medical evaluation cannot exclude sexual abuse.”<sup>14</sup>

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<sup>4</sup> *Id.* at 62.

<sup>5</sup> *Id.*

<sup>6</sup> *Malaya at Kusang Loob na Salaysay* dated February 17, 2016 - offered as Exhibit “A” before the trial court; *id.* at 63.

<sup>7</sup> *Original Certificate of Live Birth* - offered as Exhibit “G” before the trial court; *id.*

<sup>8</sup> *Id.* at 33.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 63.

<sup>12</sup> *Id.*

<sup>13</sup> *Medico Legal Report dated February 17, 2016* – offered as Exhibit “F” before the trial court; *id.*

<sup>14</sup> *Id.* at 34.

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### *Version of the Defense*

On February 17, 2016, petitioner saw AAA and his two (2) siblings aged five (5) and two (2) playing in front of his apartment. He invited them for breakfast and told them to invite their mother BBB too. After learning that AAA and his siblings were going to school later that day, he invited the children to take a bath in his house.<sup>15</sup> When BBB asked why, he told her he had shampoo at home. He also offered to buy things for the children.<sup>16</sup>

Later on, AAA undressed inside the bathroom. Petitioner noticed that his penis was reddish. He reported it to BBB but the latter only admonished the boy to stop playing with his penis. Petitioner then changed his mind about bathing the boy and insisted that BBB do it herself.<sup>17</sup>

The following day, he went to BBB's house and advised her to have AAA checked by a doctor because his penis might get infected. After he got BBB's assurance that she would take care of AAA, he went back home. Before noon, he reported for work but got arrested for allegedly molesting AAA.<sup>18</sup>

While he was in jail, his employer visited him. The latter told him that BBB was asking for ₱150,000.00 in exchange for dropping the case against him.<sup>19</sup>

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

By Decision dated December 8, 2017,<sup>20</sup> the Regional Trial Court-Branch 34, Gapan City, Nueva Ecija found petitioner guilty as charged, *viz.*:

**WHEREFORE**, premises considered, the court finds accused Sonny Boy Agustin y Francisco, alias "Hanna" **GUILTY beyond reasonable doubt** of the crime of acts of lasciviousness in relation to Section 5, paragraph (b) of the Republic Act No. 7610, otherwise known as "The Law Against Child Prostitution and other Sexual Abuse", and hereby imposes upon him the penalty of **twelve (12) years and one (1) day of reclusion temporal, as minimum, to seventeen (17) years of reclusion temporal as maximum.**

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<sup>15</sup> *Id.* at 64.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 34.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Penned by Judge Celso O. Baguio; *id.* at 62-68.

*mtx*

Accused is hereby **ORDERED** to pay the private complainant the following amounts of money: **P15,000.00 as moral damages; P15,000.00 as fine; P20,000.00 as civil indemnity; and P15,000.00 as exemplary damages.** No costs.

Upon promulgation of this judgment, the warden of the Bureau of Jail Management and Penology (BJMP) Gapan City Jail is hereby **ORDERED** to commit the accused to the National Bilibid Prisons, Muntinlupa City for the service of sentence.

**SO ORDERED.**<sup>21</sup>

The trial court found that the prosecution was able to establish the elements of acts of lasciviousness under Article 336 of the RPC<sup>22</sup> in relation to Section 5(b), Article III of RA 7610,<sup>23</sup> viz.: (1) petitioner's act of masturbating AAA's penis and sucking it with his mouth four (4) times constituted "lascivious conduct" and "sexual abuse;"<sup>24</sup> and (2) AAA was only seven (7) years old when petitioner molested him against his will.<sup>25</sup>

It gave full credence to AAA's positive and direct testimony on the lascivious acts petitioner performed on him.<sup>26</sup>

### Proceedings before the Court of Appeals

On appeal, petitioner assailed the verdict of conviction, claiming that AAA's alleged inconsistent testimony on whether he felt pain while being sexually molested negates the presence of "force or intimidation," hence, should result in his acquittal. Petitioner also asserted that AAA was only seven (7) years old and had no sufficient understanding about the word "masturbated."<sup>27</sup>

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<sup>21</sup> Bold in the original; *id.* at 68.

<sup>22</sup> Elements: (1) the offender commits any act of lasciviousness or lewdness upon another person of either sex; and (b) the act of lasciviousness or lewdness is committed either (i) by using force or intimidation; or (ii) when the offended party is deprived of reason or is otherwise unconscious; or (iii) when the offended party is under 12 years of age; *id.* at 65-66.

<sup>23</sup> Elements: (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 sexual abuse; and (3) the child, whether male or female, is below 18 years old; *id.* at 65.

<sup>24</sup> "**Lascivious conduct**" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person. (*Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, IRR of RA 7610, (1993).*)

"**Sexual abuse**" includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children. (*Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, IRR of RA 7610, (1993).*)

<sup>25</sup> *Rollo*, pp. 62-68.

<sup>26</sup> *Id.* at 66.

<sup>27</sup> *Id.* at 37.

*mt*



The Office of the Solicitor General (OSG) countered that: (1) whether AAA was hurt or not during the lascivious act was immaterial; and (2) the term “masturbated” was most likely not AAA’s own word but was only translated during his testimony. In any event, the trial court did not err in finding petitioner guilty as charged since all the elements of acts of lasciviousness under Article 336 of the RPC, in relation to Section 5(b), Article III of RA 7610 were present here.<sup>28</sup>

### The Court of Appeals’ Ruling

In its assailed Decision dated February 26, 2019,<sup>29</sup> the Court of Appeals affirmed with modification, thus:

**WHEREFORE**, premises considered, the instant appeal is hereby **DENIED**. The Decision dated December 8, 2017 of the Regional Trial Court, Branch 34, Gapan City, Nueva Ecija is **AFFIRMED with MODIFICATION** in that accused-appellant Sonny Boy Agustin y Francisco @ *Hanna* is found **GUILTY** of acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b) of R.A. No. 7610, and is hereby sentence to suffer imprisonment of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months and nine (9) days of *reclusion temporal*, as maximum. Accused-appellant is likewise ordered to pay private complainant Twenty Thousand Pesos (P20,000.00) as civil indemnity; Fifteen Thousand Pesos (P15,000.00) as moral damages; and Fifteen Thousand Pesos (P15,000.00) as exemplary damages. All awards of damages shall earn interest at the legal rate of six percent (6%) per annum from date of finality of this judgment until full payment thereof. On the other hand, the imposition of fine amounting to Fifteen Thousand Pesos (P15,000.00) is **DELETED**.

**SO ORDERED.**<sup>30</sup>

The Court of Appeals agreed that the prosecution succeeded in proving all the elements of acts of lasciviousness beyond reasonable doubt. Records showed that petitioner repeatedly masturbated AAA’s penis and inserted it into his mouth four (4) times.<sup>31</sup>

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<sup>28</sup> See *Brief for the Plaintiff-Appellee* dated January 10, 2019; *id.* at 69-83.

<sup>29</sup> Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Robeniol; *id.* at 31-45.

<sup>30</sup> Bold in the original; *id.* at 44-45.

<sup>31</sup> *Id.* at 62-68.

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As for the element of force or intimidation, the Court of Appeals emphasized that the same need not be proven when the victim is under twelve (12) years old. Article 336 of the RPC<sup>32</sup> expressly stated that acts of lasciviousness may be committed either: (1) by using force or intimidation; or (2) when the offended party is deprived of reason or is otherwise unconscious; or (3) when the victim is under twelve (12) years old.<sup>33</sup>

Too, there was no merit in petitioner's contention that AAA's testimony was inconsistent on whether or not he felt pain while being molested. The same did not detract from the fact that petitioner sexually abused him.<sup>34</sup>

Lastly, petitioner's defense that AAA's mother attempted to extort money from him in exchange for dropping the case was hearsay. His employer who told him this story did not testify.<sup>35</sup>

Petitioner's subsequent motion for reconsideration was denied under Resolution dated August 27, 2019.<sup>36</sup>

### The Present Petition

Petitioner now invokes the Court's discretionary appellate jurisdiction to review and reverse the verdict of conviction against him.<sup>37</sup>

### Issue

Did the Court of Appeals err in finding petitioner guilty of acts of lasciviousness under Article 336 of the RPC in relation to Section 5(b), Article III of RA 7610?

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<sup>32</sup> ARTICLE 336. *Acts of Lasciviousness.* — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prisión correccional*. **With reference to:** ARTICLE 335. *When and How Rape is Committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances: 1. By using force or intimidation; 2. When the woman is deprived of reason or otherwise unconscious; and 3. When the woman is **under twelve years of age**, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present. (*Revised Penal Code, Act No. 3815, [December 8, 1930]*)

<sup>33</sup> *Rollo*, p. 41.

<sup>34</sup> *Id.* at 62-68.

<sup>35</sup> *Id.* at 40.

<sup>36</sup> *Id.* at 47-48.

<sup>37</sup> See *Petition for Review on Certiorari* dated October 11, 2019; *id.* at 11-27.

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**Ruling**

Petitioner mainly faults the Court of Appeals for affirming the trial court's factual findings on the credibility of AAA's testimony. He maintains that: (1) AAA's testimony on whether or not he felt pain during the alleged act of sexual abuse was inconsistent, thus, the element of coercion or intimidation was not proven; and (2) AAA was barely seven (7) years old when the alleged crime was committed, hence, he did not know what "masturbated" means.

We are not persuaded.

When the issue is one of credibility of witnesses, the Court will generally not disturb the trial court's factual findings especially when affirmed in full by the Court of Appeals as in this case. For indeed, the trial court is in a better position to decide the question since it heard the witnesses themselves and observed their deportment and manner of testifying during the trial.<sup>38</sup> Here, records bear AAA's straightforward narration of the incident that while petitioner was bathing him, petitioner masturbated his penis and sucked it four (4) times, thus:

Q Mr. Witness, do you know the accused, Sonny Boy Agustin?

WITNESS:

A Yes, sir.

FISCAL BONIFACIO:

Q Is he inside the Court room?

A Yes, sir.

Q Will you please point to him?

A There, sir.

INTERPRETER:

Witness pointed to the accused, Sonny Boy Agustin.

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Q What did the accused do to you?

WITNESS:

A He held my penis, masturbated it and put it inside his mouth, sir.

FISCAL BONIFACIO:

Q And, how many times did Sonny Boy Agustin inserted your penis in his mouth?

A Four times, sir.<sup>39</sup>

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<sup>38</sup> See *People v. Mabalo*, G.R. No. 238839, February 27, 2019; also see *People v. Bay-Od*, G.R. No. 238176, January 14, 2019.

<sup>39</sup> *Rollo*, pp. 38-39.

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As the Court of Appeals correctly observed, whether or not AAA felt pain while petitioner was sucking his penis is immaterial to petitioner's culpability for acts of lasciviousness under Article 336 of the RPC in relation to Section 5(b), Article III of RA 7610.

In any event, the equation petitioner draws between the element of coercion or intimidation under RA 7610 on one hand, and the alleged lack of physical pain the victim suffered from petitioner's lascivious conduct on the other is off-target.

To begin with, the element of coercion or intimidation need not always take a physical form. "Moral coercion or ascendancy can in fact take the place of coercion or intimidation." *People v. Larin*<sup>40</sup> is apropos:

It is an accepted rule that different people react differently to a given situation or type of situation. One cannot reasonably expect uniform reactions from victims of sexual assault. Carla's submissiveness to Larin's lascivious conduct (i.e. cunnilingus)<sup>41</sup> **does not exonerate him from criminal liability, as the law does not require physical violence on the person of the victim. Moral coercion or ascendancy is sufficient.** (Emphasis supplied)

AAA called petitioner "Mommy Hanna." He was close to "Mommy Hanna" like his own mother. It was the reason why AAA readily accepted "Mommy Hanna's" invitation to take a bath in the latter's home. But as it turned out, "Mommy Hanna" when unmasked, became "Monstrous Hanna" who took advantage of the boy's closeness to and trust in him. "Mommy Hanna" a.k.a "Monstrous Hanna" sexually molested him by masturbating his penis and sucking it four (4) times.

The boy may only be seven (7) years old at the time he was sexually abused but he knew exactly what petitioner did to him. He said petitioner "masturbated his penis" as the latter repeatedly held it, causing the boy to suffer pain as a result. The boy also said petitioner sucked his penis four (4) times. Being only seven (7) years old who was not shown to have had any experience about the ways of the world, the boy could not have narrated in detail what petitioner did to him had he not actually experienced it. Settled is the rule that testimonies of child-victims are normally given full weight and credit. Youth and immaturity are generally badges of truth and sincerity.<sup>42</sup>

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<sup>40</sup> 357 Phil. 987-101 (1998).

<sup>41</sup> Added for emphasis.

<sup>42</sup> *People v. Padit*, 780 Phil. 69 (2016).

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Too, BBB testified on her son's reaction being "afraid and crying" right after the incident. Their immediate action was to report the incident to the police and have AAA medically examined speaks of spontaneity and truthfulness.<sup>43</sup>

Suffice it to state that AAA's narration about the incident conforms with the medical findings of the doctor who examined him. Dr. Charissa Dysangco's Medico Legal Report<sup>44</sup> indicated that while no evident injury was found at the time of the examination "**the medical evaluation cannot exclude sexual abuse.**"

Notably, against AAA's positive testimony, petitioner only offered denial as defense. The Court has constantly decreed that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, between a categorical testimony which has a ring of truth on one hand, and a mere denial on the other, the former is generally held to prevail.<sup>45</sup>

In *People v. Pagkatipunan y Cleope*,<sup>46</sup> the Court reiterated that when the victim is under twelve (12) years of age at the time the offense was committed, the offense shall be designated as "Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 of RA 7610." Thus, before an accused can be convicted of child abuse through lascivious conduct on a minor below twelve (12) years of age, the requisites of acts of lasciviousness under Article 336 of the RPC must be present in addition to the requisites of sexual abuse under Section 5(b) of RA 7610.

The elements of acts of lasciviousness under Article 336 of the RPC are: (a) the offender commits any act of lasciviousness or lewdness; (b) the lascivious act is done under any of the following circumstances: [i] by using force or intimidation; [ii] when the offended party is deprived of reason or otherwise unconscious; or [iii] when the offended party is under twelve (12) years of age; and (c) the offended party is another person of either sex.<sup>47</sup>

Here, these elements are all present: (a) petitioner committed lascivious act on AAA by masturbating and sucking AAA's penis four

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<sup>43</sup> *Rollo*, p. 63.

<sup>44</sup> Offered as Exhibit "F" before the trial court; *id.*

<sup>45</sup> *People v. Batalla*, G.R. No. 234323, January 7, 2019.

<sup>46</sup> G.R. No. 232393, August 14, 2019.

<sup>47</sup> *People v. Pagkatipunan y Cleope*, G.R. No. 232393, August 14, 2019.

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(4) times; (b) AAA was only seven (7) years old at that time; and (c) AAA is another person of either sex.

On the other hand, sexual abuse under Section 5(b), Article III of RA 7610 has three (3) elements: (a) the accused commits an act of sexual intercourse or lascivious conduct; (b) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (c) the child is below eighteen (18) years old.<sup>48</sup>

Similarly, these elements are present here:

**First.** Petitioner's act of repeatedly holding and sucking AAA's penis to gratify his sexual desires are covered by the respective definitions of "sexual abuse" and "lascivious conduct" under Section 2 of the rules and regulations of RA 7610,<sup>49</sup> viz.:

(g) "Sexual abuse" includes the employment, use, persuasion, inducement, enticement or **coercion** of a child to engage in, or assist another person to engage in, sexual intercourse or **lascivious conduct or the molestation**, prostitution, or incest with children;

(h) "Lascivious conduct" means the **intentional touching**, either directly or through clothing, of the **genitalia**, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, **whether of the same or opposite sex**, with an intent to **abuse**, humiliate, harass, degrade, or **arouse or gratify the sexual desire of any person**, bestiality, **masturbation**, lascivious exhibition of the genitals or pubic area of a person. (Emphasis supplied)

In *Pinlac v. People*<sup>50</sup> the Court convicted the accused for lascivious conduct under Section 5 (b), Article III of RA 7610 when he performed oral sex on a 14-year old victim by sucking his penis until he ejaculated.

**Second.** Section 5 of RA 7610 states that when a child indulges in sexual intercourse or any lascivious conduct due to the coercion or influence of any adult, the child is deemed to be a "*child exploited in prostitution and other sexual abuse.*"<sup>51</sup>

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<sup>48</sup> *Fianza v. People*, 815 Phil. 379, 390 (2017).

<sup>49</sup> Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, IRR of RA 7610, (1993).

<sup>50</sup> 773 Phil. 49 (2015).

<sup>51</sup> SECTION 5. *Child Prostitution and Other Sexual Abuse.* — Children, whether male or female, who for money, profit, or any other consideration or **due to the coercion or influence of any adult**, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

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AAA was seven (7) years old at the time of the sexual abuse. He would have been easily influenced or morally coerced by petitioner, who was not only older than him but one whom he called “Mommy Hanna.”<sup>52</sup> They were neighbors. It was not difficult to see that AAA treated “Mommy Hanna” like his own mother and one he deeply trusted. In fact, AAA readily accepted petitioner’s invitation to bathe him in his home. In fine, petitioner had moral ascendancy over the seven (7) year old boy.

More, petitioner admittedly treated AAA, BBB, and his two (2) siblings as his own family.<sup>53</sup>

*People v. Padlan*<sup>54</sup> decreed that the victim need not be a child exploited in prostitution for money or profit in order for RA 7610 to apply; it is applicable so long as the child is subjected to “sexual abuse,” either by engaging in sexual intercourse or “lascivious conduct.”

**Third.** To repeat, AAA was only seven (7) years old at the time of the sexual abuse. His minority was sufficiently alleged and proved.

All told, the Court of Appeals did not err in affirming the trial court’s verdict of conviction against petitioner for acts of lasciviousness under Article 336 of the RPC in relation to Section 5(b), Article III of RA 7610.

### ***Penalty***

Section 5(b), Article III of RA 7610<sup>55</sup> provides that *reclusion temporal* in its **medium** period<sup>56</sup> shall be imposed on those who commit lascivious conduct against a child under twelve (12) years

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<sup>52</sup> *Malaya at Kusang Loob na Salaysay* dated February 17, 2016 - offered as Exhibit “A” before the trial court; see *rollo*, p. 63.

<sup>53</sup> *Id.* at 64-65.

<sup>54</sup> 817 Phil. 1008, 1024-1025 (2017).

<sup>55</sup> **ARTICLE III** (*Child Prostitution and Other Sexual Abuse*)

SECTION 5. *Child Prostitution and Other Sexual Abuse.* – xxx

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse; *Provided*, That when the victim is **under twelve (12) years of age**, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and **Article 336** of Act No. 3815, as amended, **the Revised Penal Code**, for rape or **lascivious conduct**, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is **under twelve (12) years of age shall be reclusion temporal in its medium period.** (*Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, Republic Act No. 7610, June 17, 1992*)

<sup>56</sup> Ranges from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months; See *People v. Dagsa y Bantas*, G.R. No. 219889, January 29, 2018, 853 SCRA 276, 296-297.

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old.<sup>57</sup> In *Quimvel v. People*,<sup>58</sup> the Court applied the Indeterminate Sentence Law when it imposed the penalty on the accused who was similarly charged with acts of lasciviousness.

Here, the Court of Appeals correctly imposed the indeterminate penalty of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months and nine (9) days of *reclusion temporal*, as maximum.<sup>59</sup>

Applying *People v. Tulagan*,<sup>60</sup> however, the awards should be increased as follows: (1) civil indemnity from ₱20,000.00 to ₱50,000.00; (2) moral damages from ₱15,000.00 to ₱50,000.00; and (3) exemplary damages from ₱15,000.00 to ₱50,000.00. All monetary awards shall earn legal interest of six percent (6%) *per annum* from finality of this Resolution until fully paid.<sup>61</sup>

**WHEREFORE**, the petition is **DENIED**. The assailed Decision dated February 26, 2019 and Resolution dated August 27, 2019 of the Court of Appeals in CA-G.R. CR No. 41067 are **AFFIRMED with MODIFICATION**.

Petitioner is found **GUILTY** of **Acts of Lasciviousness** under Article 336 of the Revised Penal Code in relation to Section 5(b), Article III of RA 7610 and sentenced to an indeterminate penalty of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months and nine (9) days of *reclusion temporal*, as maximum. He is further ordered to pay ₱50,000.00 as civil indemnity; ₱50,000.00 as moral damages; and ₱50,000.00 as exemplary damages.

Legal interest of six percent (6%) *per annum* is imposed on the monetary awards from finality of this Resolution until fully paid.

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<sup>57</sup> *Id.*

<sup>58</sup> 808 Phil. 889 (2017).

<sup>59</sup> **In the absence of any mitigating or aggravating circumstance**, the maximum term of the sentence to be imposed shall be taken from the medium period of *reclusion temporal* in its medium period, which ranges from **fifteen (15) years, six (6) months and twenty-one (21) days to sixteen (16) years, five (5) months and nine (9) days**. On the other hand, the **minimum term** shall be taken from the penalty next lower to *reclusion temporal* medium, that is ***reclusion temporal* minimum**, which ranges from **twelve (12) years and one (1) day to fourteen (14) years and eight (8) months**; See *People v. Dagsa y Bantas*, G.R. No. 219889, January 29, 2018.

<sup>60</sup> G.R. No. 227363, March 12, 2019.

<sup>61</sup> *Id.*

*mlk*




**SO ORDERED.”** *Peralta, C.J., on official business.*

Very truly yours,

**LIBRADA C. BUENA**  
Division Clerk of Court

by:

  
**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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Diliman, 1101 Quezon City

Court of Appeals (x)  
Manila  
(CA-G.R. CR No. 41067)

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

The Hon. Presiding Judge  
Regional Trial Court, Branch 34  
Gapan City, 3105 Nueva Ecija  
(Crim. Case No. 19530-16)

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