



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated November 18, 2020 which reads as follows:*

**“G.R. No. 232506 – HILARIO PLANOS y LANOY, accused-petitioner, versus PEOPLE OF THE PHILIPPINES, plaintiff-respondent.**

After a careful review of the records of the case and the issues submitted by the parties, the Court finds no error committed in the Decision<sup>1</sup> dated March 17, 2017 (Decision) and Resolution<sup>2</sup> dated June 21, 2017 (Resolution) of the Court of Appeals, Fifth Division (CA), in CA-G.R. CR No. 37999. The facts, as borne out by the records, sufficiently support the conclusion that the accused-petitioner is indeed guilty of violating Section 5(b) of Republic Act No. 7610. The issues and matters raised before the Court, the same ones as those raised in the CA, were sufficiently addressed and correctly ruled upon by the CA.

The accused-petitioner anchored his appeal on his intoxication on the night of the incident. He argued that his intoxication negated any intent on his end to voluntarily commit the acts in question. This argument was already raised in the CA, which was held to be untenable as he was unable to prove that his alcohol intake that night affected his mental faculties.

The CA did not err in its ruling.

First of all, intoxication is neither a justifying nor exempting circumstance that completely negates criminal liability. Under Article 15 of the Revised Penal Code (RPC), it is an alternative circumstance

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<sup>1</sup> *Rollo*, pp. 66-73. Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Fernanda Lampas-Peralta and Jane Aurora C. Lantion concurring.

<sup>2</sup> *Id.* at 84-85.

that may either aggravate or mitigate the offense depending on the circumstances. Thus:

ARTICLE 15. *Their Concept.* — Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender.

The alternative circumstance of relationship shall be taken into consideration when the offended party is the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

**The intoxication of the offender shall be taken into consideration as a mitigating circumstance when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony; but when the intoxication is habitual or intentional it shall be considered as an aggravating circumstance.** (Emphasis and underscoring supplied)

At most, therefore, his intoxication could only mitigate, not extinguish, his criminal liability. In turn, for the alternative circumstance of intoxication to be treated as a mitigating circumstance, the defense has the burden of evidence to show “that the intoxication is not habitual, not subsequent to a plan to commit a felony and the accused’s drunkenness affected his mental faculties.”<sup>3</sup>

In the present case, there is nothing on record to show that the accused-petitioner was not a habitual drinker, or that he did not drink subsequent to his plan to commit the crime. Neither was there anything in the records that shows his level of intoxication was such that his mental faculties were impaired. This was because the defense of intoxication was raised only in the appeal, as the defense only proffered denial during the trial. While the victim did in fact testify that she observed the accused-petitioner to be drunk, this is not enough for the intoxication to be considered as a mitigating circumstance because of the absence of any independent proof that the intoxication was at such a level that it impaired his mental faculties. Also to reiterate, the defense was also unable to discharge its burden to prove that the accused-petitioner was not a habitual drinker, or that he had already been drinking prior to his decision to commit the crime.

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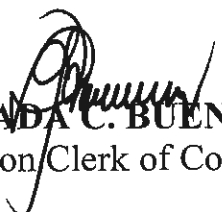
<sup>3</sup> *People v. Mondigo*, G.R. No. 167954, January 31, 2008, 543 SCRA 384, 392.

Considering the foregoing, the Court therefore affirms the accused-petitioner's conviction. The Court, however, modifies the penalty in line with *People v. Tulagan*.<sup>4</sup>

**WHEREFORE**, premises considered, the Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated March 17, 2017 and Resolution dated June 21, 2017 of the Court of Appeals in CA-G.R. CR No. 37999. The Decision finding accused-petitioner Hilario Planos y Lanoy guilty beyond reasonable doubt of Lascivious Conduct under Section 5(b) of Republic Act No. 7610 is hereby **AFFIRMED with MODIFICATION**. He is hereby sentenced to suffer the indeterminate penalty of fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal* as minimum to seventeen (17) years and four (4) months of *reclusion temporal* as maximum. The accused-petitioner is likewise ordered to pay the private complainant the amounts of Fifty Thousand Pesos (P50,000.00) representing civil indemnity, Fifty Thousand Pesos (P50,000.00) representing moral damages, and Fifty Thousand Pesos (P50,000.00) representing exemplary damages, in accordance with the Court's Decision in *People v. Tulagan*. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until fully paid.

**SO ORDERED.**” *Gesmundo, J., Additional Member per Raffle dated September 30 2020, in lieu of Peralta, C.J.; Carandang, J., on official leave.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *10/18*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>4</sup> G.R. No. 227363, March 12, 2019, 896 SCRA 307.



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