



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 February 2021 which reads as follows:

“G.R. No. 252349 (People of the Philippines v. Reynaldo Santos y Calbadora¹ a.k.a. “Ninong Rey”). – After a review of the records, the Court resolves to **DISMISS** the appeal and **AFFIRM with MODIFICATIONS** the December 20, 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11891 which affirmed with modifications the Judgment³ dated June 5, 2018 of the Regional Trial Court of [BBB]⁴ City, Branch 73 (RTC), in Criminal Case Nos. 2016-204FC, 2016-205FC, 2016-206FC, 2016-207FC, and 2016-208FC which found Reynaldo Santos y Calbadora a.k.a. “Ninong Rey” (accused-appellant) guilty beyond reasonable doubt for three (3) counts of Acts of Lasciviousness under Article 336 of the Revised Penal Code (RPC), in relation to Section 5(b)⁵ of Republic Act (R.A.) No. 7610,⁶

¹ Also referred to as “Reynaldo Santos, Sr. y Calbadora” in some parts of the CA *rollo*.

² *Rollo*, pp. 3-31; penned by Associate Justice Franchito N. Diamante with Associate Justices Pablito A. Perez and Tita Marilyn B. Payoyo-Villordon, concurring.

³ CA *rollo*, pp. 71-87; penned by Acting Presiding Judge Ma. Cristina J. Mendoza-Pizzaro.

⁴ The city where the crime was committed is withheld to protect the identity of the rape victim pursuant to Amended Administrative Circular No. 83-2015 issued on September 5, 2017.

⁵ **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.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject 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; and

x x x x.

⁶ Special Protection of Children against Child Abuse, Exploitation and Discrimination Act.

and two (2) counts of Statutory Rape under Art. 266-A of the RPC, as amended by R.A. No. 8353.⁷

The Court finds no reason to disturb the factual findings and conclusions of the CA, more so that they coincide with those of the RTC.

It must be stressed that denial and *alibi* are intrinsically weak defenses which must be buttressed with strong evidence of non-culpability to merit credibility. Emphatically, for the defense of *alibi* to prosper, accused-appellant must prove not only that he was at some other place when the crime was committed but also that it was physically impossible for him to be at the *locus criminis* at the time of its commission.⁸ In this case, accused-appellant only proffered an unsubstantiated denial. He never presented any evidence to support his defenses. He even claimed that due to AAA's⁹ deficiencies, he could not remember his actual whereabouts during the incidents which prevented him from preparing an intelligible defense.¹⁰ All he had was his bare assertion that the charges were fabricated.

Consequently, accused-appellant's bare denial cannot prevail over AAA's positive and categorical testimony. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity.¹¹

As regards the penalties imposed as well as the awards of damages, the Court deems it proper to modify the same to be in accord with recent jurisprudence on the matter. Thus, for statutory rape under Art. 266-A(1), in relation to Art. 266-B of the RPC, accused-appellant shall suffer the penalty of *reclusion perpetua*, for each count, and shall pay the victim ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages,¹² for each count. For acts of lasciviousness under Art. 336 of the

⁷ The Anti-Rape Law of 1997.

⁸ *People v. Villanueva*, 822 Phil. 735, 745 (2017).

⁹ The true name of the victim has been replaced with fictitious initials in conformity with Amended Administrative Circular No. 83-2015 dated September 5, 2017 (*Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances*). The confidentiality of the identity of the victim is mandated by Republic Act (R.A.) No. 7610 (*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*); R.A. No. 8505 (*Rape Victim Assistance and Protection Act of 1998*); R.A. No. 9208 (*Anti-Trafficking in Persons Act of 2003*); R.A. No. 9262 (*Anti-Violence Against Women and Their Children Act of 2004*); and R.A. No. 9344 (*Juvenile Justice and Welfare Act of 2006*).

¹⁰ *Rollo*, p. 9.

¹¹ *People v. Ganaba*, 829 Phil. 306, 317 (2018), citing *People v. Descartin*, 810 Phil. 881, 891-892 (2017).

¹² *People v. Jugueta*, 783 Phil. 806 (2016).

RPC in relation to Sec. 5(b) of R.A. No. 7610, the penalty imposed is *reclusion temporal* in its medium period. Applying the Indeterminate Sentence Law, the maximum term of the indeterminate penalty shall be that which could be properly imposed under the law, while the minimum term shall be anywhere within the range of the penalty next lower in degree. Thus, accused-appellant shall suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day of *reclusion temporal* in its minimum period, as minimum, to fifteen (15) years, six (6) months, and twenty-one (21) days of *reclusion temporal* in its medium period, as maximum, for each count. He shall further pay the victim ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages,¹³ and a fine of ₱15,000.00 pursuant to Sec. 31(f) of R.A. No. 7610,¹⁴ for each count.¹⁵

WHEREFORE, the Court **DISMISSES** the appeal and **AFFIRMS with MODIFICATIONS** the December 20, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11891. Accused-appellant Reynaldo Santos y Calbadora *a.k.a.* “*Ninong Rey*” is found **GUILTY** beyond reasonable doubt for the following crimes:

- (1) Three (3) counts of Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610. He is hereby **SENTENCED** to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day of *reclusion temporal* in its minimum period, as minimum, to fifteen (15) years, six (6) months, and twenty-one (21) days of *reclusion temporal* in its medium period, as maximum, for each count. He is further **ORDERED** to **PAY** the victim, AAA, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages, and a **FINE** of ₱15,000.00 pursuant to Section 31(f) of Republic Act No. 7610, for each count; and,
- (2) Two (2) counts of Statutory Rape under Article 266-A(1), in relation to Article 266-B, of the Revised Penal Code and is **SENTENCED** to suffer the penalty of *reclusion perpetua*, for each count, and shall **PAY** the victim, AAA, the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, for each count.

¹³ Id.

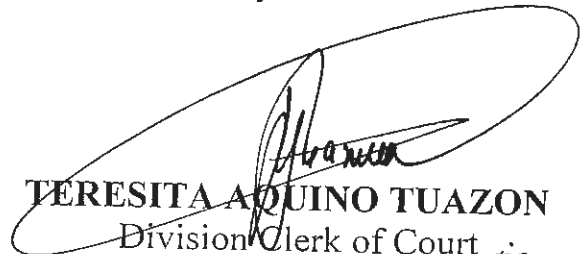
¹⁴ *People v. BBB*, G.R. No. 232071, July 10, 2019.

¹⁵ *People v. Tulagan*, G.R. No. 227363, March 12, 2019.

All monetary awards and damages herein shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.¹⁶

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court
 23 MAR 2021 7:23

*OFFICE OF THE SOLICITOR GENERAL (reg)

134 Amorsolo Street
 1229 Legaspi Village
 Makati City

*PUBLIC ATTORNEY'S OFFICE (reg)

Special & Appealed Cases Service
 Department of Justice
 PAO-DOJ Agencies Building
 NIA Road corner East Avenue
 1104 Diliman, Quezon City

*REYNALDO SANTOS y CALBADORA @

NINONG REY (reg)
 Accused-Appellant
 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 73
 Olongapo City
 (Crim. Case No. 224-2014FC;
 Crim. Case Nos. 2016-204FC to 2016-208FC)

JUDGMENT DIVISION (x)
 Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
 LIBRARY SERVICES (x)
 [For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
 OFFICE OF THE REPORTER (x)
 PHILIPPINE JUDICIAL ACADEMY (x)
 Supreme Court, Manila

COURT OF APPEALS (x)
 Ma. Orosa Street
 Ermita, 1000 Manila
 CA-G.R. CR-HC No. 11891

*with copy of CA Decision dated 20 December 2019
Please notify the Court of any change in your address.
 GR252349. 2/17/2021(186)URES(m)

¹⁶ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).