



Republic of the Philippines  
 Supreme Court  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 214880**

Present:

- versus -

SERENO,\* *C.J.*,  
 LEONARDO-DE CASTRO,\*\*  
 DEL CASTILLO,  
 CAGUIOA,\*\*\* *and*  
 TIJAM, *JJ.*

**AMANTE PADLAN y LEONES**  
**@ BUTOG,**  
*Accused-Appellant.*

Promulgated:  
**SEP 06 2017**

X-----X

**DECISION**

**DEL CASTILLO, J.:**

This resolves the appeal filed by the appellant Amante Padlan y Leones (Padlan) assailing the April 15, 2014 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05517 which affirmed with modifications the November 10, 2011 Joint Decision<sup>2</sup> of the Regional Trial Court (RTC) of Malolos City, Branch 18, in Criminal Case Nos. 2755-M-2005, 2756-M-2005, and 2757-M-2005, finding Padlan guilty beyond reasonable doubt of two counts of rape and one count of acts of lasciviousness, respectively.

Three Informations were filed against Padlan charging him with two counts of rape under Article 266-A of the Revised Penal Code (RPC) in relation to Republic Act No. 7610<sup>3</sup> (RA 7610), and one count of acts of lasciviousness under Article 336 of the RPC in relation to RA 7610, allegedly committed as follows:

*Microm*

\* On official leave.  
 \*\* Acting Chairperson per Special Order No. 2480 dated August 31, 2017.  
 \*\*\* Per Raffle dated September 6, 2017.  
<sup>1</sup> CA *rollo*, pp. 82-95; penned by Associate Justice Rebecca De Guia-Salvador and concurred in by Associate Justices Ramon R. Garcia and Danton Q. Bueser.  
<sup>2</sup> Records, pp. 148-159, penned by Presiding Judge Victoria C. Fernandez-Bernardo.  
<sup>3</sup> Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

Criminal Case No. 2755-M-2005

The undersigned Asst. Provincial Prosecutor accuses Amante Padlan y Leones @ Butog of the crime of Rape penalized under the provisions of Art. 266-A of the Revised Penal Code, as amended by R.A. 8353 in relation to R.A. 7610, committed as follows:

That on or about the 7<sup>th</sup> day of August, 2005, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully, unlawfully and feloniously by means of force and intimidation, have [sic] carnal knowledge of "AAA," 9 years old, against her will and without her consent and after having carnal knowledge of said "AAA" inserted his finger into her genital, thereby affecting badly the latter's emotional and psychological well being and development.

Contrary to law.<sup>4</sup>

Criminal Case No. 2756-M-2005

The undersigned Asst. Provincial Prosecutor accuses Amante Padlan y Leones @ Butog of the crime of Rape penalized under the provisions of Art. 266-A of the Revised Penal Code, as amended by R.A. 8353 in relation to R.A. 7610, committed as follows:

That on or about the 27th day of September, 2005, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully, unlawfully and feloniously by means of force and intimidation, have carnal knowledge of "AAA," 9 years old, against her will and without her consent and after having carnal knowledge of said "AAA" inserted his finger into her genital, thereby affecting badly the latter's emotional and psychological well being and development.

Contrary to law.<sup>5</sup>

Criminal Case No. 2757-M-2005

The undersigned Asst. Provincial Prosecutor accuses Amante Padlan y Leones @ Butog of the crime of Acts of Lasciviousness penalized under the provisions of Art. 336 of the Revised Penal Code in relation to R.A. 7610, Sec. 5 (b), committed as follows:

That on or about the 28th day of September, 2005, in the municipality of Meycauayan, province of Bulacan, Philippines,

<sup>4</sup> Records, p. 2.

<sup>5</sup> Id. (2nd).



and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously, with lewd designs, commit acts of lasciviousness upon the person of "AAA," a nine (9) year old minor, by touching her vagina and against her will, thereby badly affecting the psychological and emotional well being of said "AAA".

Contrary to law.<sup>6</sup>

When arraigned on October 24, 2005, Padlan pleaded not guilty to all the offenses charged against him. After the pre-trial conference, trial on the merits followed. During trial, the prosecution presented the testimonies of "AAA" and her mother, "BBB," while the defense presented Padlan.

### ***Version of the Prosecution***

"AAA" is a nine-year old girl from Meycauayan, Bulacan. She testified that on August 7, 2005, at about 1:00 p.m., while she was sleeping inside their house, she was surprised when Padlan woke her up and asked her to stand up. "AAA" stood up as she was told. Padlan then touched her vagina and continued caressing it until he was fully aroused. Thereafter, Padlan took "AAA's" clothes off and undressed himself as well. He told "AAA" to lie down. Padlan then inserted his penis inside "AAA's" vagina. According to "AAA," the insertion of appellant's penis was only for a short time but the insertion was so painful that it caused her to shout '*Aray!*' Padlan withdrew his penis and inserted his finger inside "AAA's" vagina instead. "AAA" again exclaimed in pain, which caused Padlan to remove his finger. Thereafter, "AAA" put her clothes back on. She did not report the incident to her mother because of Padlan's threat to kill her mother if she did.

The second incident occurred in the evening of September 27, 2005 when Padlan called "AAA" and told her that her mother, "BBB," wanted her to go to a certain *Ate Sharon* to borrow money. Padlan warned "AAA" that "BBB" would spank her if she did not obey her order. Consequently, "AAA" followed Padlan to *Ate Sharon's* house. When they reached an *aratiles* tree along the way, Padlan stopped "AAA" and told her to lie down on the ground. Padlan then removed "AAA's" shorts and underwear and inserted his penis inside her vagina. After Padlan was finished satisfying his lust, "AAA" went home by herself.

The following day on September 28, 2005, "AAA" was sleeping in her sister's bedroom while her mother was gathering *kangkong* outside.

<sup>6</sup> Id. (3rd).



“AAA” was again roused from her sleep when she felt Padlan touching and rubbing her vagina. “AAA” quickly ran towards her mother to prevent Padlan from going any further with his advances.

The next day, “AAA” complained to “BBB” about the pain she felt in her vagina. “BBB” examined “AAA’s” vagina and saw that it was swollen and had pus. When asked who was responsible for her swollen vagina, “AAA” told her mother about what Padlan had done to her. “BBB” then confronted Padlan about “AAA’s” claims. According to “BBB,” Padlan admitted that he raped “AAA” twice.

“AAA’s” older brother reported the rape incidents to the police. Padlan was then apprehended by the police authorities while “AAA” was brought to Camp Crame for a medical examination.

“BBB” testified that she knew Padlan because their neighbor, Alvin Padlan (Alvin), adopted him. When Alvin left for Masbate, he left Padlan under her care with a promise that he would get him upon his return. As such, Padlan lived with “BBB’s” family since August 15, 2003 until September 28, 2005 when he was arrested.

### *Version of the Defense*

For his defense, Padlan denied the charge of rape against him and put up the defense of alibi. He claimed that on August 7, 2005, at around 12:00 noon, he went to Nueva Ecija with his employer to buy vegetables to be resold at a public market in Bulacan. Padlan claimed that he returned to the Bulacan public market at about 2:00 a.m. the following morning.

On September 27, 2005 at around 12:00 noon, Padlan claimed that he was resting inside the house of “AAA” after selling vegetables at the public market. After about an hour, he took a bath and went back to the market to collect payments from the buyer of his vegetables. He claimed that he collected payments until 12:00 midnight.

On September 28, 2005, at around 11:00 a.m., Padlan rested at home after selling vegetables. He took a bath, ate, and watched television. He claimed that he did not have any encounter with “AAA” and that he was surprised to learn that he was being accused of rape. After being confronted by “BBB,” Padlan insisted that he did not know anything about the accusations of rape against him.



### ***Ruling of the Regional Trial Court***

On November 10, 2011, the RTC of Malolos City, Bulacan, Branch 18 rendered judgment finding Padlan guilty as charged. The RTC was convinced that the prosecution, through the testimonies of “AAA” and her mother, was able to establish the guilt of Padlan beyond reasonable doubt.

The dispositive part of the RTC’s Joint Decision reads:

WHEREFORE, accused Amante L. Padlan, as his guilt in these three cases has been proven beyond reasonable doubt, is hereby sentenced:

a) In Criminal Case No. 2755-M-2005, to suffer *reclusion perpetua* and to pay private victim civil indemnity in the amount of ₱50,000.00 and moral damages in the amount of ₱50,000.00;

b) In Criminal Case No. 2756-M-2005, to suffer the penalty of *reclusion perpetua* and to pay private victim civil indemnity in the amount of ₱50,000.00 and moral damages in the amount of ₱50,000.00; and

c) In Criminal Case No. 2757-M-2005, to suffer the imprisonment five (5) months and eleven (11) days of *arresto mayor* and two (2) years, four (4) months and one (1) day of *prision correccional*.

SO ORDERED.<sup>7</sup>

Aggrieved by the RTC’s Joint Decision, Padlan appealed to the CA.

### ***Ruling of the Court of Appeals***

On April 15, 2014, the CA affirmed the RTC’s Joint Decision and held as follows:

WHEREFORE, the appeal is DENIED for lack of merit. With the MODIFICATION increasing the award of civil indemnity and moral damages to ₱75,000.00 each, and awarding ₱30,000.00 as exemplary damages in Criminal Case Nos. 2755-M-2005 and 2756-M-2005, the Joint Decision dated November 10, 2011 of the Regional Trial Court of Malolos City, Bulacan, Branch 18, is AFFIRMED in all other respects. All monetary awards for damages shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this decision until fully paid.

SO ORDERED.<sup>8</sup>



<sup>7</sup> Id. at 158-159.

<sup>8</sup> CA rollo, pp. 94-95.

Dissatisfied with the CA's Decision, Padlan, through his counsel, filed a Notice of Appeal<sup>9</sup> dated May 13, 2014 manifesting his intention to appeal the CA Decision to this Court.

In a Resolution<sup>10</sup> dated January 12, 2015, this Court directed the parties to submit their respective supplemental briefs, if they so desired.

In its Manifestation<sup>11</sup> dated April 15, 2015, the Office of the Solicitor General (OSG) informed this Court that it was adopting all arguments adduced in its Appellee's Brief dated May 21, 2013 in lieu of filing a Supplemental Brief.

Likewise, Padlan filed a Manifestation<sup>12</sup> dated May 6, 2015, indicating that he would no longer file a Supplemental Brief since he had already argued all the relevant issues in his Appellant's Brief.

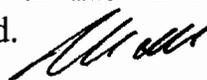
### **Issue**

The lone issue raised by Padlan in his Appellant's Brief is whether the trial court erred in finding him guilty of the crimes imputed against him despite the prosecution's failure to prove his guilt beyond reasonable doubt. According to Padlan, the prosecution failed to overcome the presumption of his innocence. Padlan challenges the credibility of "AAA" and insists that he was in a different place at the time the alleged crimes were committed. Padlan thus prays for his acquittal.

### **Our Ruling**

The appeal lacks merit.

After a careful review of the records of the case, the Court finds no cogent reason to depart from the findings of both the RTC and CA that the prosecution was able to sufficiently prove beyond a reasonable doubt all the elements of the crimes of rape and acts of lasciviousness. The Court affirms the Decision of the CA finding Padlan guilty of two counts of rape and one count of acts of lasciviousness, but with modifications on the penalty imposed and amount of damages awarded.



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<sup>9</sup> Id. at 96.

<sup>10</sup> *Rollo*, pp. 22-23.

<sup>11</sup> Id. at 34-36.

<sup>12</sup> Id. at 37-41.

Under Article 266-A of the RPC, rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force, threat, or intimidation;
2. When the offended party is deprived of reason or otherwise unconscious;
3. By means of fraudulent machination or grave abuse of authority; and
4. **When the offended party is under twelve (12) years of age** or is demented, even though none of the circumstances mentioned above be present.

In *People v. Gutierrez*,<sup>13</sup> the Court held that there is statutory rape when: “(1) the offended party is under [twelve] years of age[;] and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation; whether the victim was deprived of reason or consciousness; or whether it was done through fraud or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse.”

In the present case, all the elements of statutory rape have been sufficiently established in Criminal Case Nos. 2755-M-2005 and 2756-M-2005 since the prosecution’s evidence showed that on two separate occasions, Padlan had carnal knowledge of “AAA,” a woman under 12 years of age. The defense did not dispute the fact that “AAA” was nine years old at the time of the incident. Her birth certificate, which was presented during trial before the RTC, clearly stated that her date of birth is August 20, 1996.<sup>14</sup>

During her direct examination, “AAA” categorically stated that Padlan inserted his penis into her vagina on August 7, 2005 and again on September 27, 2005. The relevant portions of her testimony reveal the following incident on August 7, 2005:

FISCAL VITUG

x x x x



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<sup>13</sup> 731 Phil. 352, 357 (2014).

<sup>14</sup> Records, p. 74, Exhibit “B.”

Q: On August 7, 2005, from 1:00 p.m. onwards, where were you?  
A: I was in our house, ma'am.

x x x x

Q: You said you were sleeping at that time, was there any unusual incident that took place, if any?  
A: There was, ma'am.

Q: What is this incident you are referring to?  
A: He woke me up and asked me to stand up, ma'am.

x x x x

Q: You said "*Ginising po nya ako at pinatayo ako,*" who are you referring to?  
A: Amante Padlan, ma'am.

x x x x

Q: Do you know Amante Padlan?  
A: Yes, ma'am.

Q: How long have you known him?  
A: When he lived in our house, ma'am.

x x x x

Q: Then what happened next, if any?  
A: He asked me to stand up and touched my vagina, ma'am.

x x x x

Q: Aside from touching your vagina, what else did he do next, if any?  
A: He asked me to remove my dress then he put out his penis and asked me to lie down and tried to insert his penis into my vagina, ma'am.

x x x x

Q: How long did he insert his penis into your vagina?  
A: 1½, ma'am.

COURT

Q: 1½ of what, in terms of minutes or hours?  
A: *Oras po*, Your Honor.<sup>15</sup>

x x x x

Q: Now after you said "*aray*" and he stopped. What else happened?  
A: He inserted his finger, ma'am. 

<sup>15</sup> TSN, January 25, 2006, pp. 2-6.

- Q: Where did he insert his finger?  
A: He inserted his finger into my vagina, ma'am.<sup>16</sup>

On September 27, 2005 Padlan again succeeded in having sexual intercourse with AAA. She narrated her ordeal as follows:

FISCAL LAGROSA

x x x x

- Q: Now do you know what [sic] the incident that happened on September 27?  
A: Yes, ma'am.

x x x x

- Q: And where did you go?  
A: We went to the tree of "Aratiles," Ma'am.

- Q: And what happened at the "Aratiles" tree?  
A: We stopped there, Ma'am.

- Q: And what did you do when you stopped?  
A: He removed my panty and my shorts, Ma'am.

- Q: And after he removed your panty and your shorts, what happened next?  
A: He drew out his penis, Ma'am.

- Q: After he drew out his penis, what happened?  
A: He inserted his penis into my private part, Ma'am.<sup>17</sup>

Further, "AAA" testified that on September 28, 2005, while she was asleep, she felt someone touching her vagina. Upon opening her eyes, "AAA" saw that it was Padlan who was touching her vagina.<sup>18</sup>

As shown by "AAA's" testimony, she was able to narrate in a clear and candid manner how Padlan raped and molested her. Being a 9-year old rape victim, her testimony deserves full weight and credence. "[A] girl of tender years, who barely understands sex and sexuality, is unlikely to impute to any man a crime so serious as rape, if what she claims is not true."<sup>19</sup> Moreover, the defense did not present any improper motive on "AAA" why she would impute a serious charge of rape against Padlan. Verily, we affirm

<sup>16</sup> TSN, May 29, 2006, p. 3.

<sup>17</sup> TSN, October 23, 2006, pp. 3-4.

<sup>18</sup> TSN, May 29, 2006, pp. 7-8.

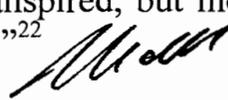
<sup>19</sup> *People v. Veloso*, 703 Phil. 541, 553 (2013), citing *People v. Salazar*, 648 Phil. 520, 531 (2010).

the CA that all the elements of Rape and Acts of Lasciviousness had been proven in the case at bar.

Besides, the RTC found that “AAA’s” testimony was credible since it was given in a categorical, straightforward, spontaneous, and frank manner despite her young age.<sup>20</sup> We find no compelling reason to deviate from these findings especially since the CA affirmed the same. The finding of credibility should not be overturned since the trial court judge had the opportunity to personally examine the demeanor of the witnesses when they testified on the stand. The finding of credibility may be overturned only when certain facts or circumstances are overlooked, misunderstood, or misapplied, and the same could have materially affected the outcome of the case. No such circumstance is present in the case at bar. Thus, the finding for “AAA’s” credibility stands.

For his defense, Padlan denied the charges against him and presented an alibi. He contended that on the dates when the rape and acts of lasciviousness were alleged to have been committed, he was either in Nueva Ecija buying vegetables for resale in Bulacan, collecting payments from his buyers at the market and resting at home thereafter, or watching television at home. These are all uncorroborated self-serving statements. Time and again, the Court has held that denial and alibi are inherently weak defenses that cannot prevail over the positive and categorical testimony and identification of the complainant.<sup>21</sup> Moreover, for alibi to prosper, it is insufficient that the accused prove that he was somewhere else when the crime was committed; he must likewise establish that it was physically impossible for him to have been present at the scene of the crime at the time of its commission.

In this case, while Padlan alleged that on August 7, 2005 he was in Nueva Ecija with his employer buying vegetables, Padlan failed to present the testimony of such employer. Consequently, his claim remained uncorroborated and unsubstantiated. As such, in the face of the accusation against him, his alibi cannot prevail over the positive testimony of “AAA.” Moreover, the distance alone from Meycauayan, Bulacan to Nueva Ecija does not conclusively prove that it was physically impossible for Padlan to go to Nueva Ecija and still return to Bulacan to commit the crime of rape. “Physical impossibility refers not only to the geographical distance between the place where the accused was and the place where the crime was committed when the crime transpired, but more importantly, the facility of access between the two places.”<sup>22</sup>



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<sup>20</sup> Records, p. 155.

<sup>21</sup> *People v. Amistoso*, 701 Phil. 345, 362-363 (2013).

<sup>22</sup> *People v. Viojela*, 697 Phil. 513, 529 (2012).

Further, Padlan testified that on September 27-28, 2005, he was resting inside the house of “AAA’s” family after selling vegetables at the public market. Instead of removing himself from the *locus criminis*, his testimony placed him squarely at the very scene of the crime or its immediate vicinity. Thus, in the face of “AAA’s” positive identification of Padlan as her rapist, we reject Padlan’s defense of alibi.

The Court, however, disagrees with the RTC and the CA with regard to the imposition of penalty for the crime of Acts of Lasciviousness in Criminal Case No. 2757-M-2005. The RTC, as affirmed by the CA, imposed the penalty of imprisonment of five (5) months and eleven (11) days of *arresto mayor* as minimum and two (2) years, four (4) months, and one (1) day of *prision correccional* as maximum pursuant to the provisions of Art. 336 of the RPC. The RTC did not apply the penalty prescribed by Sec. 5(b), Art. III of RA 7610 since according to the RTC, “the informations did not particularly allege what particular Section of R.A. 7610 ha[d] been violated by the accused.”<sup>23</sup>

We disagree with the RTC.

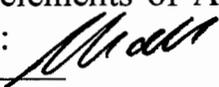
A plain reading of the accusatory portion of the Information in Criminal Case No. 2757-M-2005 reads:

#### INFORMATION

The undersigned Asst. Provincial Prosecutor accuses Amante Padlan y Leones @ Butog of the crime of Acts of Lasciviousness penalized under the provisions of Art. 336 of the Revised Penal Code **in relation to R.A. 7610, Sec. 5 (b)**, committed as follows:

That on or about the 28th day of September, 2005, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously, with lewd designs, **commit acts of lasciviousness upon the person of AAA, a nine (9) year old minor, by touching her vagina** and against her will, thereby badly affecting the psychological and emotional well being of said AAA.

Contrary to law.<sup>24</sup> (Emphasis supplied)

To be held liable for lascivious conduct under Sec. 5(b), Art. III of RA 7610, the following elements of Acts of Lasciviousness under Art. 336 of the RPC must be met: 

<sup>23</sup> Records, p. 156.

<sup>24</sup> Id. at 2 (3<sup>rd</sup>).

1. That the offender commits any act of lasciviousness or lewdness;
2. That it is done under any of the following circumstances:
  - a) Through force, threat or intimidation;
  - b) When the offended party is deprived of reason or otherwise unconscious;
  - c) By means of fraudulent machination or grave abuse of authority;
  - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
3. That the offended party is another person of either sex.<sup>25</sup>

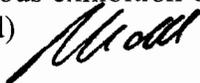
In addition to the elements under Art. 336 of the RPC, the following requisites for sexual abuse under Sec. 5(b), Art. III of RA 7610, must also be established to wit:

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.
3. The child, whether male or female, is below 18 years of age.<sup>26</sup>

In the present case, the Information in Criminal Case No. 2757-M-2005 specifically stated: (1) that “AAA” was a nine-year old minor at the time of the incident; and (2) that Padlan committed acts of lasciviousness against “AAA” by touching her vagina. Contrary to the ruling of the RTC which was affirmed by the CA, we find that the elements of lascivious conduct under Sec. 5(b), Art. III of RA 7610 have been sufficiently alleged in the Information and duly proven during trial.

Sec. 2(h), of the Implementing Rules and Regulations of RA 7610 defines lascivious conduct as:

[T]he **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)



<sup>25</sup> *People v. Quimvel*, G.R. No. 214497, April 18, 2017.

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

More importantly, Sec. 5(b), Art. III of RA 7610 specifically states the following:

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.

x x x x

(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;** x x x

In *People v. Aycardo*,<sup>27</sup> the Court explained that a child need not be exploited in prostitution for the provisions of RA 7610 to apply:

Section 5 (b), Article III of R.A. No. 7610 punishes sexual intercourse or lascivious conduct not only with a child exploited in prostitution, but also with a child subjected to other sexual abuses. It covers not only a situation where a child is abused for profit, but also where one — through coercion, intimidation or influence — engages in sexual intercourse or lascivious conduct with a child. Thus, a child is deemed subjected to other sexual abuse when he or she indulges in lascivious conduct under the coercion or influence of any adult.

It is clear from the above that “AAA” need not be a child exploited in prostitution for money or profit in order for the provisions of RA 7160 to apply. As long as a child is subjected to sexual abuse, either by engaging in sexual intercourse or lascivious conduct, the penalty under Sec. 5 (b), Art. III of RA 7610 shall be the proper imposable penalty.

In *Olivarez v. Court of Appeals*,<sup>28</sup> the Court held:

Thus a child is deemed subjected to other sexual abuse when the child indulges in lascivious conduct under the coercion or influence of any adult. In this case, Cristina was sexually abused because she was coerced or intimidated by petitioner to indulge in a lascivious conduct. Furthermore, it is inconsequential that the sexual abuse occurred only

<sup>27</sup> G.R. No. 218114, June 5, 2017.

<sup>28</sup> 503 Phil. 421, 432-433 (2005).



once. As expressly provided in Section 3 (b) of R.A. 7610, the abuse may be habitual or not. It must be observed that Article III of R.A. 7610 is captioned as "Child Prostitution and Other Sexual Abuse" because Congress really intended to cover a situation where the minor may have been coerced or intimidated into lascivious conduct, not necessarily for money or profit. The law covers not only child prostitution but also other forms of sexual abuse. x x x

Accordingly, a modification of the penalty imposed by the RTC in Criminal Case No. 2757-M-2005 is in order.

The proper imposable penalty for acts of lasciviousness under the circumstances is *reclusion temporal* in its medium period which ranges from fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months.

The Indeterminate Sentence Law (ISL) provides that if the offense is punished under a special law, as in this case, the maximum term shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.<sup>29</sup> Nonetheless, the Court had already held in *People v. Simon*<sup>30</sup> that when an offense is defined in a special law but the penalty therefor is taken from the technical nomenclature in the RPC, the legal effects under the system of penalties native to the Code would necessarily apply to the special law. Thus, in *People v. Santos*,<sup>31</sup> which also involved a case of acts of lasciviousness under Sec. 5 (b), Art. III of RA 7610, the Court held that in the absence of mitigating or aggravating circumstances, the minimum term shall be taken from the penalty one degree lower to the prescribed penalty of *reclusion temporal* medium, that is *reclusion temporal* minimum, which ranges from twelve (12) years, ten (10) months and twenty-one (21) days to fourteen (14) years and eight (8) months, while the maximum shall be taken from the medium period of the imposable penalty, that is *reclusion temporal* medium, which ranges from fifteen (15) years, six (6) months and twenty (20) days to sixteen (16) years, five (5) months and nine (9) days.

Applying the foregoing, in Criminal Case No. 2757-M-2005, Padlan is hereby sentenced to an indeterminate penalty of imprisonment of twelve (12) years, ten (10) months and twenty-one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum. Furthermore, Padlan is ordered to pay the

<sup>29</sup> Sec.1, Republic Act No. 4103, AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR AND FOR OTHER PURPOSES

<sup>30</sup> 304 Phil. 725, 756 (1994).

<sup>31</sup> 753 Phil. 637, 651 (2015), citing *Dulla v. Court of Appeals*, 382 Phil. 791, 809-810 (2000).

victim, “AAA,” the amounts of ₱20,000.00 as civil indemnity; ₱15,000.00 as moral damages; ₱15,000.00 as exemplary damages; and a fine of ₱15,000.00 in line with prevailing jurisprudence.<sup>32</sup>

Finally, as to the award of damages in Criminal Case Nos. 2755-M-2005 and 2756-M-2005 for the crime of rape, the Court increases the same in line with the rule enunciated in *People v. Jugueta*,<sup>33</sup> where the Court held that in the crime of rape where the imposable penalty is *reclusion perpetua*, the proper amounts of damages should be ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages. Hence in Criminal Case Nos. 2755-M-2005 and 2756-M-2005, where Padlan was convicted of two (2) counts of rape and sentenced to *reclusion perpetua*, the Court further modifies the award of exemplary damages to ₱75,000.00.

**WHEREFORE**, the April 15, 2014 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05517 is **AFFIRMED with FURTHER MODIFICATIONS** as follows:

1. In Criminal Case Nos. 2755-M-2005 and 2756-M-2005, appellant Amante Padlan is found guilty beyond reasonable doubt of two counts of rape as defined under Article 266-A (1)(d) and penalized under Article 266-B of the Revised Penal Code. Appellant Amante Padlan is sentenced to suffer the penalty of imprisonment of *reclusion perpetua* and is ordered to pay the victim, “AAA,” the increased amounts of ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages, all with interest at the rate of 6% *per annum* from the date of finality of this Decision until fully paid.

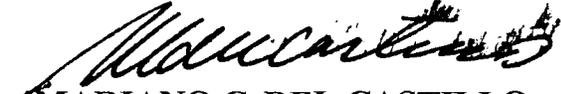
2. In Criminal Case No. 2757-M-2005, appellant Amante Padlan is found guilty of Acts of Lasciviousness as defined under Article 336 of the Revised Penal Code in relation to, and penalized under Section 5(b), Article III of Republic Act No. 7610. Appellant Amante Padlan is sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years, ten (10) months and twenty-one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum. He is further ordered to pay the victim, “AAA,” the amounts of ₱20,000.00 as civil indemnity; ₱15,000.00 as moral damages; ₱15,000.00 as exemplary damages; and a fine of ₱15,000.00, all with interest at the rate of 6% *per annum* from the date of finality of this Decision until fully paid.



<sup>32</sup> *People v. Aycardo*, supra note 27; *Quimvel v. People*, supra note 25.

<sup>33</sup> G.R. No. 202124, April 5, 2016, 788 SCRA 331, 373.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

*(On official leave)*  
**MARIA LOURDES P. A. SERENO**  
*Chief Justice*

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

  
**NOEL GIMENEZ TIJAM**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*  
*Acting Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
*Acting Chief Justice*

