



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-appellee,

G.R. No. 270317

Present:

- versus -

LEONEN, *SAJ.*, Chairperson,  
LAZARO-JAVIER,\*  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., *JJ.*

XXX270317,\*\*  
Accused-appellant.

Promulgated:

OCT 23 2024

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DECISION

LOPEZ, J., *J.*:

This Court resolves an appeal<sup>1</sup> challenging the Decision<sup>2</sup> of the Court of Appeals (CA), which affirmed the Consolidated Decision<sup>3</sup> of the Regional Trial Court (RTC) finding XXX270317 guilty beyond reasonable doubt of (1) acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act; (2) six counts of rape by sexual assault under Article 266-A(2) of the Revised Penal Code, in

\* On official business.

\*\* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 7610, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

<sup>1</sup> *Rollo*, pp. 3-5.

<sup>2</sup> *Id.* at 8-30. The September 27, 2022 Decision in CA-G.R. CR-HC No. 14955 was penned by Associate Justice Jose Lorenzo R. Dela Rosa and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Emily R. Aliño-Geluz, [REDACTED], Court of Appeals, [REDACTED].

<sup>3</sup> *Id.* at 35-48. The October 1, 2019 Decision in Criminal Case Nos. 19564, 19565, 19908, 19909, 19910, 19911, 19912, and 19913 was penned by Presiding Judge Florencio S. Arellano, [REDACTED], Regional Trial Court, [REDACTED].

relation to Section 5(b) of Republic Act No. 7610; and (3) statutory rape under Article 266-A(1)(d) of the Revised Penal Code.

### Facts

On March 10, 2015, two Informations were filed against XXX270317 charging him with lascivious conduct and rape through sexual assault. The accusatory portions of the Informations read:

#### Criminal Case No. 19564

That on or about the 6<sup>th</sup> day of March 2015, at about 4:00 o'clock in the morning, at Barangay [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused motivated by lust and lewd design, did then and there willfully, unlawfully and feloniously commit lascivious conduct on one [AAA270317], a ten (10) year old minor, accused's daughter, by touching her breast and vagina against her will and consent, with intent to abuse, humiliate or degrade said [AAA270317] and to arouse and gratify his sexual desire, which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

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

#### Criminal Case No. 19565

That on or about the 6<sup>th</sup> day of March 2015 at about 4:00 o'clock in the morning, at Barangay [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines and within the jurisdiction of this Honorable [C]ourt, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously commit acts of sexual assault upon the person of one [BBB270317], accused's daughter, a[n] [eight (8) year old minor, by inserting his penis in the anus of said [BBB270317] against her will and consent, which acts demeaned, degraded and debased the intrinsic worth and dignity of the said [BBB] as a human being.

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

Upon arraignment on April 20, 2015, XXX270317 pleaded not guilty to the charges against him.<sup>6</sup> Then, on June 15, 2015 and before the conduct of pre-trial for the two cases, six more Informations were filed against XXX270317 charging him with five counts of rape through sexual assault, and statutory rape. The accusatory portions of these Informations read:

<sup>4</sup> Records (Criminal Case No. 19564), p. 1.

<sup>5</sup> Records (Criminal Case No. 19565), p. 1.

<sup>6</sup> Records (Criminal Case No. 19564), p. 27.

## Criminal Case No. 19908

That sometime in the month of September 2013 at ██████████, Barangay ██████████, Municipality of ██████████, Province of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully and unlawfully commit sexual assault while inside a comfort room upon the person of one [AAA270317], a nine (9) year old minor, by inserting his finger into the vagina of said [AAA270317] against her will and consent, which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

That [AAA270317] is a daughter of the accused.

**Contrary to law.**<sup>7</sup> (Emphasis in the original)

## Criminal Case No. 19909

That sometime in the month of September 2013, in the evening thereof, at ██████████, Barangay ██████████, Municipality of ██████████, Province of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully and unlawfully commit sexual assault upon the person of one [AAA270317], a nine (9) year old minor, by inserting his finger spiced with chili into the vagina of said [AAA270317] against her will and consent, which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

That [AAA270317] is a daughter of the accused.

**Contrary to law.**<sup>8</sup> (Emphasis in the original)

## Criminal Case No. 19910

That sometime in the month of September 2013, in the evening thereof, at ██████████, Barangay ██████████, Municipality of ██████████, Province of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge with one [AAA270317], a nine (9) year old minor, against her will and consent, which acts debased, degraded or demeaned the intrinsic worth and dignity of the said [AAA270317], as a human being.

That [AAA270317] is a daughter of the accused.

<sup>7</sup> Records (Criminal Case No. 19908), p. 1.

<sup>8</sup> Records (Criminal Case No. 19909), p. 1.

**Contrary to law.**<sup>9</sup> (Emphasis in the original)

Criminal Case No. 19911

That sometime in the year 2014, at ██████████, Barangay ██████████, Municipality of ██████████, Province of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully and unlawfully commit sexual assault while getting chili upon the person of one [BBB270317], and eight (8) year old minor by inserting his penis into the anus of said [BBB270317] against her will and consent which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

That [BBB270317] is a daughter of the accused.

**Contrary to law.**<sup>10</sup> (Emphasis in the original)

Criminal Case No. 19912

That sometime in the year 2014, in the evening thereof, at ██████████, Barangay ██████████, Municipality of ██████████, Province of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully and unlawfully commit sexual assault while inside the warehouse upon the person of one [BBB270317], and eight (8) year old minor by inserting his penis into the anus of said [BBB270317] against her will and consent which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

That [BBB270317] is a daughter of the accused.

**Contrary to law.**<sup>11</sup> (Emphasis in the original)

Criminal Case No. 19913

That sometime in the year 2014, in the evening thereof, at ██████████, Barangay ██████████, Municipality of ██████████, Province of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully and unlawfully commit sexual assault while inside the comfort room upon the person of one [BBB270317], and eight (8) year old minor by inserting his penis into the anus of said [BBB270317] against her will and consent which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

<sup>9</sup> Records (Criminal Case No. 19910), p. 1.

<sup>10</sup> Records (Criminal Case No. 19911), p. 1.

<sup>11</sup> Records (Criminal Case No. 19912), p. 1.

That [BBB270317] is a daughter of the accused.

**Contrary to law.**<sup>12</sup> (Emphasis in the original)

On June 29, 2015, XXX270317 was arraigned and pleaded not guilty to the additional charges against him.<sup>13</sup> After termination of pre-trial,<sup>14</sup> the joint trial of all eight cases against XXX270317 then commenced.

The prosecution presented the following witnesses: (1) AAA270317; (2) BBB270317; and (3) CCC270317. Their testimonies can be summarized as follows:

AAA270317 testified that she is XXX270317's daughter and she was born on May 21, 2004.<sup>15</sup> She averred that her ordeal with her father started sometime in 2013 when their family moved from Laguna to [REDACTED].<sup>16</sup> AAA270317 testified that on one occasion, XXX270317 made him go to the bathroom where he touched her breasts and inserted his finger in her vagina.<sup>17</sup> She recounted that the next day, XXX270317 took her to a warehouse near their house, undressed her, went on top of her, and inserted his penis in her vagina.<sup>18</sup> AAA270317 further recalled that at some other time in 2013, XXX270317 took her to the bathroom and again inserted his finger in her vagina.<sup>19</sup> She asserted that XXX270317 abused her countless times<sup>20</sup> and she even saw XXX270317 abusing her sister, BBB270317.<sup>21</sup>

BBB270317 narrated that XXX270317 is her father and she was born on April 21, 2006.<sup>22</sup> She recounted that XXX270317 raped her for the first time sometime in 2014.<sup>23</sup> At that time, they were gathering chili peppers in a farm when XXX270317 told her to remove her shorts and panty and hold on to a tree branch. After she followed her father's instructions, BBB270317 felt XXX270317's penis in her anus.<sup>24</sup> The same thing happened on two other occasions in 2014 in different locations near their house.<sup>25</sup> BBB270317 further recalled that her father's sexual assault was repeated on March 6, 2015. While she was cooking rice in their home in [REDACTED], [REDACTED], Batangas, her father once again made her remove her clothes and inserted his

<sup>12</sup> Records (Criminal Case No. 19913), p. 1.

<sup>13</sup> Records (Criminal Case No. 19908), p. 27.

<sup>14</sup> Records (Criminal Case No. 19564), pp. 38-40.

<sup>15</sup> TSN, [AAA270317], October 5, 2016, p. 9.

<sup>16</sup> *Id.* at 12-13.

<sup>17</sup> *Id.* at 13-14.

<sup>18</sup> *Id.* at 17-18.

<sup>19</sup> *Id.* at 18-19.

<sup>20</sup> *Id.* at 21.

<sup>21</sup> *Id.* at 19-21.

<sup>22</sup> TSN, [BBB270317], pp. 5-6.

<sup>23</sup> *Id.* at 8.

<sup>24</sup> *Id.* at 9-10.

<sup>25</sup> *Id.* at 10-11.

penis in her anus.<sup>26</sup> BBB270317 averred that she told AAA270317 what XXX270317 did to her.<sup>27</sup>

CCC270317 was one of the teachers of AAA270317.<sup>28</sup> She testified that she was interviewing AAA270317 on a school-related matter when AAA270317 confided to her that her father was molesting her and her sister.<sup>29</sup> CCC270317 then reported what AAA270317 told her to the school principal, who, in turn, sought the assistance of the municipal government.<sup>30</sup>

However, CCC270317 admitted on cross-examination that she had no personal knowledge of the rape and molestation subject of the present cases against XXX270317.<sup>31</sup>

Initially, the prosecution intended to also present the following as witnesses: (1) Police Officer 2 (PO2) Edwin Garces Vivas; (2) PO2 Alfonso Umali de Castro; and (3) Dulcesima B. Solestre. However, the prosecution waived their presentation after it agreed with the defense to enter into stipulations regarding the substance of their testimonies.<sup>32</sup>

For its part, the defense presented XXX270317 as its sole witness. He denied the charges against him and claimed that he worked two jobs, seven days a week,<sup>33</sup> and he only goes to the house he shared with his family to take a bath and eat breakfast.<sup>34</sup> XXX270317 asserted that there was never a time when he was left alone with his children.<sup>35</sup> He said AAA270317 and BBB270317 only accused him of molesting and raping them because they were angry at him because he was unable to send them to school.<sup>36</sup> However, XXX270317 averred that both AAA270317 and BBB270317 attended school.<sup>37</sup>

On cross-examination, XXX270317 admitted that both AAA270317 and BBB270317 are his daughters<sup>38</sup> and he does not know of any reason why CCC270317 testified against him.<sup>39</sup>

On October 1, 2019, the RTC promulgated its Consolidated Decision,<sup>40</sup> the dispositive portion of which reads:

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<sup>26</sup> *Id.* at 7-8.

<sup>27</sup> *Id.* at 12.

<sup>28</sup> TSN, [CCC270317], November 13, 2017, p. 4.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 11-12.

<sup>31</sup> *Id.* at 8.

<sup>32</sup> Records (Criminal Case No. 19564), pp. 61, 63.

<sup>33</sup> TSN, [XXX270317], December 13, 2018, pp. 5-6.

<sup>34</sup> *Id.* at 7.

<sup>35</sup> *Id.* at 8.

<sup>36</sup> *Id.* at 8-9.

<sup>37</sup> *Id.* at 9.

<sup>38</sup> *Id.* at 11.

<sup>39</sup> *Id.* at 12.

<sup>40</sup> *Rollo*, pp. 35-48

**WHEREFORE**, in the light of all the foregoing, the Court finds the Accused [XXX270317] **guilty** beyond reasonable doubt, as principal, of the crime of **Lascivious Conduct committed against [AAA270317]**, defined under [Article] 336 of the Revised Penal Code, as amended, and penalized under Article III, Section 5(b) of Republic Act 7610, in relation to Section 2, paragraph "h" of its Implementing Rules and Regulations, there being no aggravating nor mitigating circumstances in attendance, (though accused is the father of the victim, it is not specifically alleged as an aggravating circumstance), hereby sentences him an indeterminate sentence of imprisonment ranging from **12 years and 1 day of Reclusion Temporal, as minimum, to 15 years, 6 months and 20 days also of Prison Temporal, as maximum**, and to indemnify [AAA270317] the sum of Php 30,000.00 as moral damages, and to pay the costs of suit (Crim. Case No. 19564).

Finding the Accused [XXX270317] **guilty** beyond reasonable doubt, as principal, of the crime of 2 counts of **Rape (through Sexual Assault) committed against [AAA270317]**, defined under Article 266-A(2) and penalized under Article 266-B of the Revised Penal Code, as amended by Republic Act 8353, there being no aggravating nor mitigating circumstances in attendance, he is hereby sentenced to suffer an indeterminate penalty of imprisonment ranging from **2 years and 4 months of Prison Correccional, as minimum, to 8 years and 1 day of Prison Mayor, as maximum**, and to indemnify [AAA270317] the sum of Php 40,000.00, as civil indemnity ex-delicto, plus the sum of Php 40,000.00, as moral damages, for the mental and psychological sufferings she had undergone, for each case, and to pay the costs (Criminal Case Nos. 19908 and 19909).

The aggravating circumstance of minority and relationship were not appreciated considering that they are not specifically alleged in the Information as such.

Further, finding the Accused [XXX270317] **guilty** beyond reasonable doubt, as principal, of the crime of **Rape committed against [BBB270317]**, defined under Article 266-A(1) and penalized under Article 266-B of the Revised Penal Code, as amended by Republic Act 8353, there being no aggravating nor mitigating circumstance in attendance, he is hereby sentenced to suffer the penalty of **Reclusion Perpetua**, and to indemnify [BBB270317] the sum of Php 50,000.00, as civil indemnity ex-delicto, plus the sum of Php 50,000.00, as moral damages, for the mental and psychological sufferings she had undergone, and to pay the costs (Criminal Case No. 19910).

The aggravating circumstance of minority and relationship were not appreciated considering that they are not specifically alleged in the Information as such.

Furthermore, finding the Accused [XXX270317] **guilty** beyond reasonable doubt, as principal, of the crime of **4 counts of Rape (through sexual assault) committed against [BBB270317]**, defined under Article 266-A(2) and penalized under Article 266-B of the Revised Penal Code, as amended by Republic Act 8353, there being no aggravating nor mitigating circumstance in attendance, he is hereby sentenced to suffer the

indeterminate penalty of imprisonment ranging **from 2 years and 4 months of Prison Correccional, as minimum, to 8 years and 1 day of Prison Mayor, as maximum**, and to indemnify [BBB270317] the sum of Php 50,000.00, as civil indemnity ex-delicto, plus the sum of Php 50,000.00, as moral damages, for the mental and psychological sufferings she had undergone for each case, and to pay the costs (Criminal Case Nos. 19565, 19911, 19912, and 19913).

The aggravating circumstance of minority and relationship were not appreciated considering that they are not specifically alleged in the Information as such.

Considering that Accused [XXX270317] has undergone preventive imprisonment, being a detention prisoner, and there being no evidence to show that he is a recidivist, he shall be credited in the service of the sentence for the full time during which he has undergone preventive imprisonment, he had agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise he shall be credited only with four-fifth (4/5) of the time during which he has undergone preventive imprisonment, as provided for in Article 29 of the Revised Penal Code, as amended.

The Jail Warden, Provincial Jail, ██████████ City or any of his duly authorized representatives is hereby directed to immediately commit herein Accused [XXX270317] to custody of the National Bilibid Prison, Muntinlupa City. Let a commitment order be issued for this purpose.

**IT IS SO ORDERED.**<sup>41</sup> (Emphasis in the original)

The RTC ruled that the prosecution proved all the elements of the crimes charged against XXX270317 to the point of moral certainty.<sup>42</sup> It characterized AAA270317 and BBB270317's testimonies as credible and convincing<sup>43</sup> and did not give credence to XXX270317's defense of denial and alibi. The RTC also found the defenses raised by XXX270317 insufficient to overturn the clear, positive, and categorial testimonies of the child-victims.<sup>44</sup>

Afterward, XXX270317 appealed to the CA.<sup>45</sup> In his Appellant's Brief,<sup>46</sup> XXX270317 claimed that the RTC erred when it found him guilty of the crimes charged against him considering that AAA270317 and BBB270317 were not credible witnesses.<sup>47</sup> XXX270317 pointed out that despite their accusations that he molested and raped them, they continued to live with him and never told their mother about how he supposedly abused them.<sup>48</sup> He also highlighted the fact that AAA270317 and BBB270317's

<sup>41</sup> *Id.* at 46-48.

<sup>42</sup> *Id.* at 42-45.

<sup>43</sup> *Id.* at 45.

<sup>44</sup> *Id.* at 45-46.

<sup>45</sup> *CA rollo*, p. 15.

<sup>46</sup> *Id.* at 27-49.

<sup>47</sup> *Id.* at 43.

<sup>48</sup> *Id.*

mother did not testify against him as further proof that the allegations against him were false.<sup>49</sup> XXX270317 also asserted that the prosecution's failure to present AAA270317 and BBB270317's medical certificates or a medico-legal examiner as a witness proved that there was reasonable doubt as to the veracity of the accusations against him.<sup>50</sup> Finally, he posited that the RTC should have conducted an assessment to determine the competence of AAA270317 and BBB270317 to act as witnesses for the prosecution.<sup>51</sup>

The People of the Philippines, through the Office of the Solicitor General (OSG) opposed XXX270317's appeal. In its Appellee's Brief,<sup>52</sup> the OSG claimed that XXX270317's appeal should be dismissed considering the infirmities of his appeal brief.<sup>53</sup> In any case, it claimed that no error was committed by the RTC when it found XXX270317 liable for the crimes charged against him considering that: (1) the prosecution was able to prove all the elements of the crimes charged against XXX270317 beyond reasonable doubt;<sup>54</sup> (2) a medical certificate or the testimony of a medico-legal examiner is only corroborative evidence and is not essential to secure a conviction for rape.<sup>55</sup> The OSG recommended that instead of being convicted for rape in Criminal Case No. 19910, XXX270317 should be convicted of qualified statutory rape given that it was proven during trial that XXX270317 is AAA270317's father, and that the latter was below the statutory age at the time she was raped.<sup>56</sup> The OSG also prayed that XXX270317's civil liabilities for the crimes he committed be increased in order to conform with relevant jurisprudence.<sup>57</sup>

On September 27, 2022, the CA promulgated the assailed Decision<sup>58</sup> which affirmed the ruling of the RTC with modification. The dispositive portion of the Decision reads:

**WHEREFORE**, the appeal is hereby **DENIED**, with modifications as to the sentence and penalties imposed. Accordingly, the Decision dated 14 October 2019 of the Regional Trial Court of ██████ City, ██████ in Criminal Case Nos. 19564, 19908, 19909, 19910, 19565, 19911, 19912, and 19913 with regard to its finding that accused-appellant [XXX270317] is **GUILTY** beyond reasonable doubt of the crimes of: a.) Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b) of R.A. 7610; b.) two (2) counts of Rape through Sexual Assault committed against [AAA270317]; c.) Rape defined under Article 266-A(1) of the RPC committed against [BBB270317]; and d.) Four (4) counts of Rape through Sexual Assault committed against [BBB270317], is hereby **AFFIRMED with MODIFICATIONS**.

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<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 27-49.

<sup>51</sup> *Id.* at 44-45.

<sup>52</sup> *Id.* at 75-113.

<sup>53</sup> *Id.* at 90-94.

<sup>54</sup> *Id.* at 94-105.

<sup>55</sup> *Id.* at 105.

<sup>56</sup> *Id.* at 106-108.

<sup>57</sup> *Id.* at 108-110.

<sup>58</sup> *Id.* at 8-30.

The penalty imposed by the Regional Trial Court of ██████ City, ██████ is hereby modified insofar as the sentence and monetary amounts are concerned

As regards the Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b) of R.A. No. 7610 in Criminal Case No. 19564 accused-appellant [XXX270317] is hereby sentenced to suffer the indeterminate penalty of *reclusion temporal* in its maximum period ranging from 17 years, 4 months and 1 day as minimum to 20 years as maximum. Accused-appellant [XXX270317] is also hereby ordered to indemnify [AAA270317] the amount of Php 50,000.00 as civil indemnity; Php 50,000.00 as moral damages; and Php 50,000.00 as exemplary damages.

As regards the charge of two (2) counts of Rape through Sexual Assault in Criminal Case Nos. 19908 and 19909, accused-appellant [XXX270317] is also hereby sentenced to suffer the indeterminate penalty of *reclusion temporal* in its maximum period ranging from 17 years, 4 months and 1 day as minimum to 20 years maximum for each case. Accused-appellant [XXX270317] is also hereby ordered to also indemnify [AAA270317] the amount of Php 50,000.00 as civil indemnity; Php 50,000.00 as moral damages; and Php 50,000.00 as exemplary damages.

As regards the charge of four (4) counts of Rape through Sexual Assault in Criminal Case Nos. 19656, 19911, 19912 and 19913, accused-appellant [XXX270317] is also hereby sentenced to suffer the indeterminate penalty of *reclusion temporal* in its maximum period ranging from 17 years, 4 months and 1 day as minimum to 20 years as maximum for each of the four cases. Accused-appellant [XXX270317] is also hereby ordered to also indemnify [BBB270317] the amount of Php 50,000.00 as civil indemnity; Php 50,000.00 as moral damages; and Php 50,000.00 as exemplary damages four each of the four cases

Lastly, as regards the charge of statutory rape defined under Article 266-A (1) of the RPC in Criminal Case No. 19910, this Court affirm the sentence against accused-appellant [XXX270317] to suffer the indeterminate penalty of *reclusion perpetua* without eligibility for parole. Accused-appellant [XXX270317] is also hereby ordered to indemnify [AAA270317] the amount of Php 100,000.00 as civil indemnity; Php 100,000.00 as moral damages; and Php 100,000.00 as exemplary damages.

All damages awarded shall earn interest at the legal rate of six percent (6%) per annum from finality of this Decision until fully paid

**SO ORDERED.**<sup>59</sup> (Emphasis in the original)

The CA affirmed the conclusion reached by the RTC that XXX270317's guilt for the crimes charged against him was proven by the prosecution to the point of moral certainty.<sup>60</sup> It echoed the RTC's finding that AAA270317 and BBB270317's testimonies against their father were

<sup>59</sup> *Id.* at 28–30.

<sup>60</sup> *Id.* at 18.

credible<sup>61</sup> and likewise discounted the defenses raised by XXX270317.<sup>62</sup> However, the CA found it proper to convict XXX270317 of statutory rape instead of simple rape. It also increased the penalties and civil liabilities imposed on him to conform with law and relevant jurisprudence.<sup>63</sup>

Hence, XXX270317 filed the present appeal.

On January 31, 2024, this Court issued a Resolution<sup>64</sup> which required XXX270317 and the OSG to file their respective supplemental briefs within 30 days from notice, if they desire.

On April 11, 2024, the OSG filed a Manifestation<sup>65</sup> which informed this Court that it will not file a supplemental brief in the present case.

On April 17, 2024, XXX270317, through the Public Attorney's Office, filed a Manifestation<sup>66</sup> which likewise informed this Court that he will not file a supplemental brief.

### Issues

This Court shall resolve whether accused-appellant XXX270317 is guilty beyond reasonable doubt of:

- (1) acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610;
- (2) six counts of Sexual Assault under Article 266-A(2) of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610; and
- (3) statutory rape under Article 266-A(1)(d) of the Revised Penal Code.

### This Court's Ruling

The appeal is denied. A review of the evidence on record shows that the prosecution discharged its burden of proving beyond reasonable doubt that: *first*, all the elements of the crimes charged are present; and *second*, accused-appellant is the one who perpetrated the crimes.<sup>67</sup>

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<sup>61</sup> *Id.* at 23–24.

<sup>62</sup> *Id.* at 23–26.

<sup>63</sup> *Id.* at 25–28.

<sup>64</sup> *Id.* at 49.

<sup>65</sup> *Id.* at 52–57.

<sup>66</sup> *Id.* at 58–62.

<sup>67</sup> *People v. Urzais*, 748 Phil. 561, 570 (2017) [Per J. Perez, Third Division].

*The prosecution has proven beyond reasonable doubt that XXX270317 is guilty of acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610.*

To convict an accused of acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610, the prosecution must prove all the elements of acts of lasciviousness under the Revised Penal Code and sexual abuse under Republic Act No. 7610.<sup>68</sup> Relevantly, the elements of acts of lasciviousness are: (1) the offender commits any act of lasciviousness or lewdness; (2) the lascivious act is done under any of the following circumstances: (a) by using force or intimidation; (b) when the offended party is deprived of reason or otherwise unconscious; or (c) when the offended party is under 12 years of age; and (3) the offended party is another person of either sex.<sup>69</sup>

On the other hand, sexual abuse under Republic Act No. 7610 has three elements: *first*, that the accused commits an act of sexual intercourse or lascivious conduct; *second*, the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and *third*, the child, whether male or female is below 18 years old.<sup>70</sup>

Here, the prosecution was able to prove the relevant elements of acts of lasciviousness and sexual abuse to the point of moral certainty.

*First*, accused-appellant committed lascivious conduct against AAA270317. Section 2(h) of the Implementing Rules and Regulations (IRR) of Republic Act No. 7610 defines “lascivious conduct” as follows:

*“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 her affidavit<sup>71</sup> which was duly offered<sup>72</sup> and admitted<sup>73</sup> into evidence, AAA270317 narrated that her father touched her breasts and vagina on March 6, 2015:

<sup>68</sup> *People v. Caoili*, 815 Phil. 839, 893 (2017) [Per J. Tijam, *En Banc*].

<sup>69</sup> *Lutap v. People*, 825 Phil. 10, 26–27 (2018) [Per J. Tijam, First Division].

<sup>70</sup> *People v. BBB*, 856 Phil. 540, 561 (2019) [Per J. Peralta, First Division].

<sup>71</sup> Records (Criminal Case No. 19564), pp. 6–8.

<sup>72</sup> *Id.* at 64–66.

<sup>73</sup> *Id.* at 71.

07. TANONG: Bakit ka narito sa police station ngayun?

SAGOT: Para po maikwento sainyo ang mga ginagawa sakín ni papa.

08. TANONG: Anong pangalan ni papa, edad at trabaho?

SAGOT: [XXX270317] po, 31 taong gulang, poultry boy at tubong Romblon, Romblon po.

09. TANONG: Ano yung sinasabi mo sakín na ikukwento mo na ginawa sa aiyo ni papa mo?

SAGOT: Na ano po, na pinapagsamantalahan po ako ni papa.

10. TANONG: Ano yung sinasabi mo na pinagsasamantalahan ka ni papa?

SAGOT: Ako po ay iniiyot nya.

11. TANONG: Ano yung sinasabi mo na iniiyot ka ni papa?

SAGOT: Yun po ay yung ginagawa niya sa akin.

....

20. TANONG: Mga ilang beses ginawa sa iyo ni papa ([XXX270317]) na sinabi mo na pagsasamantala sa iyo?

SAGOT: Madaming madami po, hindi ko na po mabilang sa sobrang dami, at ang huli po ay kahapon po ng madaling araw, (Marso 6, 2015) mga alas kwatro (4:00 AM) habang ako po ay nagpapainit po ng tubig na panligo ay lumapit si papa at pinipilit po akong pinapupunta sa bodega para daw po ako ay kanyang iyutin, pinaghihipo niya ang aking dede at pepe at nakatakbo ako palayo sa kanya at umakyat at natulog ulit ako ng kalahating oras at saka po ako lumabas ng wala na si papa sa labas.<sup>74</sup>

AAA270317 affirmed the contents of her affidavit when she was presented as a witness before the trial court;<sup>75</sup> the lower courts also found her testimony credible and worthy of belief.<sup>76</sup>

*Second*, AAA270317 was a child subjected to sexual abuse. Section 2(g) of the IRR of Republic Act No. 7610 defines “sexual abuse” as follows:

“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;

In *Quimvel v. People*,<sup>77</sup> this Court ruled that the terms “coercion” or “influence” under the law is broad enough to include “force and intimidation” and influence is subsumed under the term persuasion or coercion.<sup>78</sup> Here, AAA270317 narrated that her father used force to grope her breasts and vagina.<sup>79</sup>

<sup>74</sup> *Id.* at 6–7.

<sup>75</sup> TSN, [AAA270317], October 6, 2016, p. 15–17.

<sup>76</sup> *Rollo*, p. 24.

<sup>77</sup> 808 Phil. 889 (2017) [Per J. Velasco, Jr., *En Banc*].

<sup>78</sup> *Id.* at 919.

<sup>79</sup> Records (Criminal Case No. 19564), p. 7.

*Third*, the minority of AAA270317 at the time the rape incident occurred was proven by her certificate of live birth,<sup>80</sup> which shows that she was born on May 21, 2004. Thus, she was only 10 years old when XXX270317 sexually abused her.

*Similarly, the prosecution has proven to the point of moral certainty that XXX270317 is guilty of six counts of sexual assault under Article 266-A(2) of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610.*

To convict an accused of rape through sexual assault under Article 266-A(2) of the Revised Penal Code, the following elements must be proven beyond reasonable doubt: (1) the accused committed an act of sexual assault by (a) inserting his penis into another person's mouth or anal orifice, or (b) inserting any instrument or object into the genital or anal orifice of another person; and, (2) the act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.<sup>81</sup> In *People v. Tulagan*,<sup>82</sup> We held that when the victim is under 12 years of age or is demented, the proper nomenclature of the crime should be sexual assault under Article 266-A(2) of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610.<sup>83</sup>

Aside from the above elements, the courts are also guided by the following principles in the review of rape cases:

(1) [A]n accusation of rape, while easy to make, is difficult to prove and even harder for the person accused, though innocent, to disprove; (2) because rape, by its very nature, involves only two persons, the testimony of the complainant should be scrutinized with greatest caution; (3) the evidence for the prosecution must stand or fall on its own merits and must not be allowed to draw strength from the weakness of the evidence for the defense; and (4) the complainant's credibility assumes paramount importance because her testimony, if credible, is sufficient to support the conviction of the accused.<sup>84</sup>

Thus, the primordial consideration in rape cases is the credibility of the testimony of the victim because the accused may be convicted solely on such

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<sup>80</sup> *Id.* at 15.

<sup>81</sup> *People v. BBB*, 880 Phil. 417, 436–437 (2020) [Per J. Lazaro-Javier, First Division].

<sup>82</sup> 849 Phil. 197 (2019) [Per J. Peralta, *En Banc*].

<sup>83</sup> *Id.* at 248–249.

<sup>84</sup> *Agao v. People*, G.R. No. 248049, October 4, 2022 [Per J. Caguioa, *En Banc*] at 9–10. This pinpoint citation refers to the copy uploaded to the Supreme Court website.

testament, provided that it is credible, natural, convincing, and consistent with human nature and the normal course of things.<sup>85</sup>

Here, the prosecution proved the elements of the crime to the point of moral certainty through the clear and credible testimonies of AAA270317 and BBB270317, and documentary evidence.

AAA270317 and BBB270317's testimonies established that they were sexually assaulted by accused-appellant on six different occasions. AAA270317 narrated in her affidavit<sup>86</sup> that accused-appellant inserted his finger in her vagina on two occasions sometime in September 2013:

12. TANONG: Kelan at saan ginawa ni papa ([XXX270317]) iyon?

SAGOT: Nagsimula po iyon noong tumira kami sa [REDACTED], [REDACTED], noon pong September 2013.

13. TANONG: Pwede mo bang ikwento sa akin kung pano yung sinasabi mong pagsasamantala ni papa sa iyo?

SAGOT: Opo, Nagsimula po iyon pagkatapos ng dalawang araw na lumipat kami sa [REDACTED] galing Calamba, na pilit po akong isinama ni papa sa banyo at hinubad ang aking suot na shorts at panty, sinabihan po niya ako na huwag maingay at yung gagawin niya sa akin ay sa una lamang masakit at pagtagal ay masasarapan po ako at malaki daw ang tiyan ni mama kaya ako na ang gusto niya. Pagkahubad po niya ng aking shorts at panty ay kinandong niya ako, hubo po si papa at ipinasok niya ang daliri niya sa aking pepe (the victim show her right middle finger). Sinabi ko po na huwag po niya gawin iyon pero sinabihan niya ako na huwag maingay at huwag magsumbong. Pagkatapos po ay pinalabas na ako ni papa ng banyo.

....

16. TANONG: May sunod pa bang nangyari?

SAGOT: Opo, pagkatapos po ng isang araw ay gabi ng kumakain siya ng sili at isinama niya ulit ako sa banyo at doon ipinasok niya and daliri niyang maanghang kaya sumakit ang pepe ko, kaya pinaghugas na niya ako at pinalabas na ng banyo.<sup>87</sup>

On the other hand, BBB270317 averred in her affidavit<sup>88</sup> that she was anally penetrated by XXX270317 on three occasions in 2014 and again on March 6, 2015:

07. TANONG: Bakit ka narito sa Police Station nagayun?

SAGOT: Para po maikwento ko sainyo ang ginawa sa akin ni papa.

08. TANONG: Anong pangalan ni papa, edad at trabaho?

SAGOT: [XXX270317] po, 31 taong gulang, poultry boy at tubong Romblon, Romblon po.

<sup>85</sup> *People v. XXX*, G.R. No. 245925, July 25, 2023 [Per J. Gesmundo, First Division] at 10. This pinpoint citation refers to the copy uploaded to the Supreme Court website.

<sup>86</sup> Records (Criminal Case No. 19908), pp. 8-10.

<sup>87</sup> *Id.* at 8-9.

<sup>88</sup> Records (Criminal Case No. 19565), pp. 9-10.

09. TANONG: Ano yung sinasabi mong gusto mong sabihin sa akin na ginawa sa iyo ni papa mo.

SAGOT: Kasi po eh masama ang ginawa ni papa.

10. TANONG: Kagaya ng ano?

SAGOT: Hinindot po ako.

10. TANONG: Kailan at saan yung sinasabi mo na hinindot ka ni papa?

SAGOT: Hindi pa po ako napasok sa [REDACTED] Elementary School (sometime in 2014). Sa looban po, malayo sa aming bahay noon isinama po ako sa pangunguha ng sili.

11. TANONG: Ikwento mo nga sa akin kung anong nangyari doon sa looban?

SAGOT: Nangunguha po kami ng sili tapos po ay hinubadan ako ni papa ng shorts at panty, tapos po e pinahawak nya ako sa puno tapos po e hinindot ako ni papa sa pwet, hinubo ni papa ang kanyang shorts at brief (the victim demonstrate the sexual act of his father). Ipinasok ni papa ang kanyang titi sa aking puwet. Umiyak po ako at sinabihan ni papa na huwag maingay. Pagkatapos po na maipasok ni papa ang titi niya sa aking puwet ay pinagbihis na niya ako at biglang dumating si ate ([AAA270317]) at sinabi na hinahanap na ako ni mama.

12. TANONG: Meron pa bang nangyari:

SAGOT: Meron pa po, medyo matagal na din po, gabi po ay pinalabas ako ni papa, tapos po ay hinila ako sa bodega, hinubadan ng tsinelas, shorts at panty tapos po ay pinahiga/pinatuwad ako sa sahig (the victim demonstrated the position). Naghubo po si papa ng shorts at brief at nilagyan ng mantika ang kanyang titi tapos po eh pinasok niya ang kanyang titi sa aking puwet. Umiyak po ako at tinakpan niya ang aking bibig ng kanyang kamay at sinabing tumigil ako sa pag-iyak ko. Habang ipinapasok po ni papa ang kanyang titi sa aking puwet at hinahawakan niya ang dede ko. Sabi ko po sakanya "PAPA AYOKO NA", ang sagot po niya ay "HALA HINDI KO NA BIBILHIN AT AASIKASUHIN ANG PROJECT MO".

13. TANONG: May sunod pa bang nangyari?

SAGOT: Opo, meron pa po. Isang gabi po ay hinila ako ni papa papuntang CR, umiyak po ako at sinabi ko kay papa na "PAPA, AYOKO NA, AYOKO NA", pero po ang sabi nya ay "HALA SIGE PAPALUIN KITA", tapos po ay hinubadan niya ako ng shorts at panty at pinahawak sa pader tapos po ay hinubad niya ang kanyang shorts at brief at hinindot po niya ako, pinasok niya ang kanyang titi sa aking puwet. Pagkatapos ay binihisan na po niya ako at habang palabas ng CR ay hawak hawak ni papa ang pepe ko.

14. TANONG: May susunod pa bang nangyari?

SAGOT: Opo, kahapon po (Marso 6, 2015) ng madaling araw at titingnan ko po ang sinaing ni ate, paglabas ko ay nandoon si papa, pagkatingin ko po ng sinaing ay hinindot ako ni papa, hinalikan sa pisngi, hinubadan ng shorts at panty at pinahawak sa abuhan (lutuan) tsaka ipinasok ni papa ang kanyang titi sa aking puwet. Tapos po ay inihatid pa ako ni papa sa loob ng bahay hawak ang akin pepe.<sup>89</sup>

<sup>89</sup> *Id.*

Both AAA270317<sup>90</sup> and BBB270317<sup>91</sup> affirmed the contents of their affidavit when they were presented as witnesses during trial. The RTC found their narration of what occurred “credible, clear, positive, and convincing”<sup>92</sup> and the CA mirrored the RTC’s findings and added that their testimonies are “conclusive, logical, and probable.”<sup>93</sup>

It was duly proven by the evidence on record that both AAA270317 and BBB270317 were below 12 years of age when the sexual assaults occurred. Based on her certificate of live birth,<sup>94</sup> AAA270317 was only 9 years old when she was sexually assaulted by accused-appellant sometime in 2013. As for BBB270317, her certificate of live birth<sup>95</sup> reveals that she was only 8 years old when she was sexually assaulted by accused-appellant on four different occasions between 2014 to 2015.

In addition, the generic aggravating circumstance of cruelty can be appreciated in one of the two instances of sexual assault committed by accused-appellant against AAA270317. The test in appreciating cruelty as an aggravating circumstance is whether the accused deliberately and sadistically augmented the wrong by causing another wrong not necessary for its commission, or *inhumanly increased the victim’s suffering* or outraged or scoffed at his person or corpse.<sup>96</sup> Here, accused-appellant inserted his finger into AAA270317’s vagina after using his hands to eat chili peppers which deliberately increased the suffering of AAA270317 and caused her additional pain.<sup>97</sup>

*Accused-appellant is likewise guilty beyond reasonable doubt of qualified rape of a minor under Article 266-A(1)(d) in relation to Article 266-B(1) of the Revised Penal Code.*

To successfully prosecute a charge of statutory rape, the following elements must be established to the point of moral certainty: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat, or intimidation or grave abuse of authority.<sup>98</sup> Proof of force, intimidation, or consent is unnecessary as they are not elements of statutory rape, considering that the absence of free consent is conclusively presumed when the victim is below the statutory age.<sup>99</sup>

<sup>90</sup> TSN, [AAA270317], October 6, 2016, p. 15–17.

<sup>91</sup> TSN, [BBB270317], October 6, 2016, p. 14–15.

<sup>92</sup> *Rollo*, p. 44.

<sup>93</sup> *Id.* at 24.

<sup>94</sup> Records (Criminal Case No. 19908), p. 18.

<sup>95</sup> Records (Criminal Case No. 19565), p. 16.

<sup>96</sup> *People v. Bonito*, 325 Phil. 269 (2000) [Per J. Puno, First Division].

<sup>97</sup> Records (Criminal Case No. 19908), p. 9.

<sup>98</sup> *People v. Jagdon, Jr.*, 883 Phil. 261, 271 (2020) [Per J. Delos Santos, Second Division].

<sup>99</sup> *People v. XXX*, 842 Phil. 465, 473 (2018) [Per J. Caguioa, Second Division]

Again, the prosecution established the foregoing elements to the point of moral certainty.

*First*, her certificate of live birth<sup>100</sup> proved that AAA270317 was only 9 years old when she was raped by accused-appellant sometime in September 2013.

*Second*, that accused-appellant had carnal knowledge of AAA270317 was established by AAA270317's written and oral testimony. Her affidavit<sup>101</sup> pertinently provides:

12. TANONG: Kelan at saan ginawa ni papa ([XXX270317]) iyon?

SAGOT: Nagsimula po iyon noong tumira kami sa [REDACTED], [REDACTED], noon pong September 2013.

....

14. TANONG: Ano pa ang sumunod na nangyari?

SAGOT: Pagkalipas po ng isang araw ay saka po ulit nya ko pinagsamantalahan.

15. TANONG: Anong ginawa niya?

SAGOT: Noong gabi po ay pilit po niya akong isinama sa bodegang katabi ng aming bahay at doon po ay pinahiga ako at hinubad ang shorts at panty ko, at saka niya hinubad ang kanyang shorts, pandobleng shorts at brief at pilit po niyang pinahahawakan sa akin ang kanyang titi, pumatong po siya sa akin at ipinasok niya ang kanyang titi sa aking pepe, kalahati lamang ng kanyang titi ang naipasok niya. At na "AH" po siya. Sinabi ko po kay papa na huwag po niyang gawin iyon dahil masakit po pero itinuloy pa din niya. Pagkatapos po ay pinalabas na niya ako ng bodega at sinabihan na huwag akong magsusumbong kay mama.<sup>102</sup>

AAA270317 affirmed the allegations in her affidavit when she testified in open court<sup>103</sup> and the trial courts found AAA270317's testimony credible.<sup>104</sup>

However, there is a necessity to modify the designation of the crime which accused-appellant is accountable for considering that the special aggravating circumstance of statutory rape and qualified rape are present in this case. In *People v. ABC260708*,<sup>105</sup> this Court provided the following guidelines regarding the proper designation of the crime when both the elements of statutory rape, i.e., that the victim is below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age, and qualified rape, i.e., twin circumstances of

<sup>100</sup> Records (Criminal Case No. 19908), p. 18.

<sup>101</sup> Records (Criminal Case No. 19910), pp. 8–10.

<sup>102</sup> *Id.* at 8–10.

<sup>103</sup> TSN, [AAA270317], October 6, 2016, p. 15–17.

<sup>104</sup> *Rollo*, pp. 24, 44.

<sup>105</sup> G.R. No. 260708, January 23, 2024 [Per J. M. Lopez, *En Banc*].

minority and relationship, or the age of the victim being below 7 years old, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape, are present:

1. The crime shall be denominated as **QUALIFIED RAPE of a minor** and not qualified statutory rape if any of the special qualifying aggravating circumstances is present, *i.e., twin circumstances of minority, and relationship, or the age of the victim being below 7 years old, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape.* This rule shall apply whether the victim is below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age.

2. The crime shall be denominated as **QUALIFIED RAPE of a minor** and not qualified statutory rape if the crime is attended with two or more special qualifying aggravating circumstances, *i.e., twin circumstances of minority and relationship, or the age of the victim being below 7 years old, or the accused's knowledge of the mental disability of the victim at the time of the commission of rape.* One of these aggravating circumstances is sufficient to qualify the crime. The unutilized special qualifying aggravating circumstances will be deemed as generic aggravating circumstances which may be appreciated if the facts warrant the imposition of a divisible penalty, *i.e., existence of privileged mitigating circumstances under Article 69 of the RPC, and penalties in cases of frustrated and attempted felonies, and for accomplices and accessories pursuant to Articles 50 to 57 of the RPC.* Otherwise, any unutilized aggravating circumstances shall not be considered in the application of penalties.

3. The term "statutory age" in these guidelines shall mean either "below 12 years old" or "under 16 years old" depending on whether the crime of rape was committed before or after the effectivity of Republic Act No. 11648, respectively.<sup>106</sup> (Emphasis in the original)

Here, the special qualifying aggravating circumstance of minority, *i.e.*, AAA270317 was only 9 years old when she was raped, and relationship, *i.e.*, accused-appellant is AAA270317's father, were duly alleged in the Information and proven by the prosecution during trial through the testimonies of both AAA270317<sup>107</sup> and accused-appellant<sup>108</sup> and AAA270317's certificate of live birth.<sup>109</sup> Applying the ruling of this Court in *ABC260708*, the proper designation of the offense should be qualified rape of a minor and not merely statutory rape.

*No weight can be given to the defenses  
raised by accused-appellant*

<sup>106</sup> *Id.* at p. 27. This pinpoint citation refers to the copy uploaded in the Supreme Court website.

<sup>107</sup> TSN, [AAA270317], October 6, 2016, p. 9.

<sup>108</sup> TSN, [XXX270317], December 13, 2018, p. 11.

<sup>109</sup> Records (Criminal Case No. 19908), p. 18.

Accused-appellant claimed that the lower courts erred when it gave credence to the testimonies of AAA270317 and BBB270317 since they are not credible witnesses.<sup>110</sup> He pointed out the fact that despite supposedly molesting and raping them, both AAA270317 and BBB270317 continued to live with him and never even told their mother what supposedly happened.<sup>111</sup> Accused-appellant also highlighted the fact that their mother never testified in support of AAA270317 and BBB270317 and that the prosecution failed to present the supposed victim's medical certificate or a medico-legal examiner as proof that the accusations against him are not true.<sup>112</sup>

This Court is unconvinced.

In *People v. Eling*,<sup>113</sup> We held that the finding of the trial court on the matter of credibility of witnesses are entitled to the highest degree of respect and are entitled to great weight:

The trial court has the best opportunity to observe the demeanor of witnesses while on the stand, it can discern whether or not they are telling the truth. The unbending jurisprudence is that its findings on the matter of credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal. It is well to remind appellant that when the trial court's findings have been affirmed by the Court of Appeals, as in the case at bar, these are generally binding and conclusive upon this Court. The jurisprudential doctrine that great weight is accorded to the factual findings of the trial court particularly on the ascertainment of the credibility of witnesses can only be discarded or disturbed when it appears in the record that the trial court overlooked, ignored or disregarded some fact or circumstance of weight or significance which if considered would have altered the result.<sup>114</sup>

Here, both the RTC<sup>115</sup> and the CA<sup>116</sup> found AAA270317 and BBB270317's testimonies credible and accused-appellant failed to show that the lower courts overlooked, ignored, or disregarded some fact or circumstance when they evaluated their credibility considering that:

*First*, with respect to AAA270317 and BBB270317's failure to immediately tell their mother that their father was abusing them, it is settled that "no standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult."<sup>117</sup> We explained thusly in *People v. XXX*:<sup>118</sup>

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<sup>110</sup> CA rollo, p. 43

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> 576 Phil. 665 (2008) [Per J. Chico-Nazario, Third Division].

<sup>114</sup> *Id.* at 675.

<sup>115</sup> *Rollo*, p. 44

<sup>116</sup> *Id.* at 24.

<sup>117</sup> *People v. XXX*, 889 Phil 281, 294 (2020) [Per J. Leonen, Third Division].

<sup>118</sup> 889 Phil. 265 (2020) [Per J. Hernando, Third Division].

The Court is not swayed by accused-appellant's insistence that private complainant did not behave normally during and after the purported rape. He points out to the lack of resistance on private complainant's part as she was being raped, as well as her failure to disclose the rape right away to [CCC], her uncle. Similar arguments were also raised before but squarely rejected by the Court in the *Lolos Case*, thus:

The fact that the accused never threatened or forced AAA on that particular night and that she was still able to go out of the house and buy something from a store cannot exculpate him. *Even if she did not resist him or even gave her consent, his having carnal knowledge of her is still considered rape considering that she was only eight (8) years old at that time. It must be remembered that the accused is an uncle of the victim and has moral ascendancy over her.* Her behavior can be explained by the fear she had of the accused, who had repeatedly beaten her for various reasons. His moral ascendancy over her, combined with memories of previous beatings, was more than enough to intimidate her and render her helpless and submissive while she was being brutalized.

[T]he behavior and reaction of every person cannot be predicted with accuracy. *It is an accepted maxim that different people react differently to a given situation or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling experience. Not every rape victim can be expected to act conformably to the usual expectations of everyone.* Some may shout; some may faint; and some be shocked into insensibility, while others may openly welcome the intrusion. Behavioral psychology teaches us that people react to similar situations dissimilarly. There is no standard form of behavior when one is confronted by a shocking incident. The workings of the human mind when placed under emotional stress are unpredictable. This is true specially in this case where the victim is a child of tender age under the moral ascendancy of the perpetrator of the crime.

*To stress, there is no standard form of behavior for a rape victim, more so for a minor such as private complainant, who was just eight (8) years old and who was under the moral ascendancy of accused-appellant, a distant relative who she considers her lolo or grandfather.*<sup>119</sup> (Citations omitted, emphasis supplied)

Here, AAA270317 and BBB270317 were 9 and 8 years old, respectively, when their father, accused-appellant, began abusing them. They were also repeatedly warned<sup>120</sup> and threatened<sup>121</sup> by accused-appellant that they would no longer be allowed to go to school if they resist or tell their mother or anyone else what he did to them. To the mind of this Court: (1) the age of AAA270317 and BBB270317; (2) the fact that their abuser is their father; (3) the moral superiority exercised by accused-appellant over them as

<sup>119</sup> *Id.* at 276–277.

<sup>120</sup> Records (Criminal Case No. 19564), pp. 6–7.

<sup>121</sup> TSN, [BBB270317], March 13, 2017, p. 11

their father; and (4) the threats that he made to them, sufficiently explain AAA270317 and BBB's failure to immediately tell anyone about their plight or leave the family home.

*Second*, the non-presentation of the medical certificates of AAA270317 and BBB270317 as evidence or the medico-legal officer who examined them as witness does not affect the credibility of AAA270317 and BBB270317. We elaborated in *People v. Gapasan*:<sup>122</sup>

Non-presentation of a medical certificate or the physician who made the physical examination of the victim cannot, in the least, affect the credibility of victim's testimony. The victim's testimony, standing alone, can be made the basis of accused's prosecution and conviction, if such testimony meets the test of credibility. In the case of *People v. Abo*, the Court held:

[T]he law does not require that the testimony of a single witness must be corroborated except where expressly mandated. The weight and sufficiency of evidence is determined not by the number of the witnesses presented but by the credibility, nature, and quality of the testimony. It is settled that the testimony of a lone prosecution witness, if credible and positive, is sufficient for conviction.

Accused-appellant further argues that non-presentation of the medical certificate creates the presumption that if presented, it would be adverse to the prosecution. This Court disagrees. A medical certificate is not necessary to prove the commission of rape. It merely corroborates the testimony of the victim. It is a settled rule in evidence that presumption from suppression does not apply to corroborative evidence. Hence, the non-presentation of the medical certificate, which is merely corroborative, does not give rise to the presumption that if presented, it would be adverse to the prosecution.<sup>123</sup> (Citations omitted)

*Third*, as for the non-presentation of AAA270317 and BBB270317's mother as a witness, it is settled that the prosecution has the exclusive prerogative to determine whom to present as witnesses.<sup>124</sup> It need not present each and every witness but only such as may be needed to meet the quantum of proof necessary to establish the guilt of the accused beyond reasonable doubt.<sup>125</sup> Here, BBB270317 testified that their mother was only made aware of the abuses that they suffered from their father after they have already filed a police report against accused-appellant.<sup>126</sup> Verily, there was no need for the prosecution to present the victims' mother as a witness as she cannot even corroborate their testimonies.

<sup>122</sup> 312 Phil. 964 (1995) [Per J. Padilla, First Division].

<sup>123</sup> *Id.* at 972-973.

<sup>124</sup> *People v. Gallardo*, G.R. No. 245544, March 21, 2022 [Per J. J. Lopez, Third Division].

<sup>125</sup> *People v. Pidoy*, 453 Phil. 221, 228 (2003) [Per J. Ynares-Santiago, First Division].

<sup>126</sup> TSN, [BBB270317], March 13, 2017, p. 12.

Regarding accused-appellant's insinuation that AAA270317 and BBB270317 were not competent witnesses,<sup>127</sup> caselaw provides that every child is presumed qualified to be a witness and the burden of proof lies on the party challenging the child's competency to rebut this presumption.<sup>128</sup> Only when substantial doubt exists regarding the ability of the child to perceive, remember, communicate, distinguish truth from falsehood, or appreciate the duty to tell the truth in court will the court, *motu proprio* or on motion of a party, conduct a competency examination of a child.<sup>129</sup> In this case, while both AAA270317 and BBB270317 had difficulty remembering the exact dates that they were abused except for the most recent incidents, it does not suffice to engender substantial doubt on their competency to act as witnesses considering that no person has perfect faculties of senses or recall.<sup>130</sup> More, it must be noted that accused-appellant himself did not raise the issue of AAA270317 and BBB270317's competency to act as witnesses during trial.

As for accused-appellant's defense of denial and alibi, this Court rejects it. Denial and alibi cannot prevail over the positive testimony of a witness.<sup>131</sup> The defense of denial is treated as self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.<sup>132</sup> For the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time of the commission of the crime but also that it was physically impossible for him to be at the *locus delicti* or within its immediate vicinity.<sup>133</sup> Here, aside from his bare assertion, no evidence was presented by accused-appellant to prove that he was not within the *locus delicti* at the time the crimes were committed and it was impossible for him to be there.

*Modifications to the penalties and civil liabilities imposed on accused-appellant.*

A review of relevant laws and jurisprudence shows that there is a need to modify the penalties and civil liabilities imposed by the CA against accused-appellant.

The imposable penalty for acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610 is *reclusion temporal* medium or 14 years, eight months, and one day, as minimum to 17 years and 4 months, as maximum.<sup>134</sup> However, Article XII, Section 31(c) of Republic Act No. 7610 provides that the penalties provided shall be imposed in its maximum period when the perpetrator of the crime is

<sup>127</sup> CA rollo, 44-45.

<sup>128</sup> *People v. Esugon*, 761 Phil. 300, 311 (2015) [Per J. Bersamin, First Division].

<sup>129</sup> *Id.*

<sup>130</sup> *Kummer v. People*, 717 Phil. 670 (2013) [Per J. Brion, Second Division].

<sup>131</sup> *People v. XYZ*, G.R. No. 246975, March 23, 2022 [Per J. Inting, First Division].

<sup>132</sup> *People v. Camarino*, 892 Phil. 198, 204 (2020) [Per J. Hernando, Third Division].

<sup>133</sup> *People v. Moreno*, 872 Phil. 17, 28 (2020) [Per J. Hernando, Second Division].

<sup>134</sup> *People v. Tulagan*, 849 Phil. 197, 248-249 (2019) [Per J. Peralta, *En Banc*].

an ascendant, parent, guardian, stepparent, or collateral relative within the second degree of consanguinity or affinity of the victim. Here, it was duly proven that accused-appellant is the father of AAA270317. Hence, the penalty of *reclusion temporal* medium shall be imposed against him in its maximum period or 16 years, five months, and one day, as minimum to 17 years and four months, as maximum. Pursuant to Article XII, Section 31(f) of Republic Act No. 7610,<sup>135</sup> accused-appellant should also be penalized with a fine set by this Court at PHP 15,000.00.<sup>136</sup> In addition, jurisprudence provides that accused-appellant is civilly liable to pay AAA270317: (1) PHP 50,000.00 as civil indemnity; (2) PHP 50,000.00 as moral damages; and (3) PHP 50,000.00 as exemplary damages.<sup>137</sup>

As for his conviction for sexual assault, the imposable penalty for sexual assault under Article 266-A(2) of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610 is *reclusion temporal* medium or 14 years, eight months, and one day, as minimum, to 17 years and 4 months, as maximum.<sup>138</sup> Pursuant to Article XII, Section 31(c) of Republic Act No. 7610, the penalty of *reclusion temporal* medium shall be imposed against accused-appellant in its maximum period or 16 years, five months, and one day, as minimum, to 17 years and four months, as maximum considering that AAA270317 and BBB270317 are his daughters. Considering that the penalty to be imposed on accused-appellant is already the maximum set by law, the generic aggravating circumstance of cruelty present in one of the two counts of sexual assault committed by accused-appellant against AAA270317 can no longer be used to further increase the imposable penalty. A fine of PHP 15,000.00 is also meted out against accused-appellant pursuant to Article XII, Section 31(f) of Republic Act No. 7610.<sup>139</sup> More, he is civilly liable to pay: (1) PHP 50,000.00 as civil indemnity; (2) PHP 50,000.00 as moral damages; and (3) PHP 50,000.00 as exemplary damages,<sup>140</sup> to AAA270317 and BBB270317 for each count of sexual assault that he perpetrated against them.

Regarding, accused-appellant's conviction for qualified rape of a minor, Article 266-B of the Revised Penal Code provides that it is punishable with the death penalty. However, in accordance with Republic Act No. 9346,<sup>141</sup> the penalty of *reclusion perpetua* without the possibility of parole is

<sup>135</sup> Section 31. *Common Penal Provisions.* –

...  
(f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

<sup>136</sup> *People v. ZZZ*, 878 Phil. 331, 360 (2020) [Per C.J. Peralta, First Division].

<sup>137</sup> *People v. Tulagan*, 849 Phil. 197, 290–291 (2019) [Per J. Peralta, *En Banc*].

<sup>138</sup> *Id.* at 248–249 (2019) [Per J. Peralta, *En Banc*].

<sup>139</sup> *People v. ZZZ*, 878 Phil. 331, 360 (2020) [Per J. Peralta, First Division].

<sup>140</sup> *People v. Tulagan*, 849 Phil. 197, 290–291 (2019) [Per J. Peralta, *En Banc*].

<sup>141</sup> SECTION 1. The imposition of the penalty of death is hereby prohibited. Accordingly, Republic Act No. Eight Thousand One Hundred Seventy-Seven (R.A. No. 8177), otherwise known as the Act Designating Death by Lethal Injection is hereby repealed. Republic Act No. Seven Thousand Six Hundred Fifty-Nine (R.A. No. 7659), otherwise known as the Death Penalty Law, and all other laws, executive orders and decrees, insofar as they impose the death penalty are hereby repealed or amended accordingly.

instead imposed against accused-appellant. Further, his civil liability for this crime is increased to: (1) PHP 150,000.00 as civil indemnity; (2) PHP 150,000.00 as moral damages; and (3) PHP 150,000.00 as exemplary damages, in accordance with this Court's ruling in *People v. Buclao*.<sup>142</sup>

Finally, the civil awards shall earn interest at the rate of 6% per annum from the date of finality of this judgment until full payment.<sup>143</sup>

**FOR THESE REASONS**, the appeal is **DENIED**. The September 27, 2022 Decision of the Court of Appeals in CA-G.R. CR-HC No. 14955 is **AFFIRMED with MODIFICATION**. Accused-appellant XXX270317 is found **GUILTY** as follows:

- (1) in Criminal Case No. 19564, acts of lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610 and is **SENTENCED** to suffer the indeterminate penalty of 16 years, five months, and one day, as minimum, to 17 years and four months of *reclusion temporal*, as maximum, and to pay a fine amounting to PHP 15,000.00. He is also **ORDERED** to **PAY AAA**: (a) PHP 50,000.00 as civil indemnity; (b) PHP 50,000.00 as moral damages; and (c) PHP 50,000.00 exemplary damages;
- (2) in Criminal Case Nos. 19908 and 19909, two counts of sexual assault under Article 266-A(2) of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610 and is **SENTENCED** to suffer the indeterminate penalty of 16 years, five months, and one day, as minimum, to 17 years and four months of *reclusion temporal*, as maximum, and to pay a fine amounting to PHP 15,000.00 for each count. He is also **ORDERED** to **PAY AAA**: (a) PHP 50,000.00 as civil indemnity; (b) PHP 50,000.00 as moral damages; and (c) PHP 50,000.00 exemplary damages for each count;
- (3) in Criminal Case Nos. 19565, 19911, 19912 and 19913, four counts of sexual assault under Article 266-A(2) of the Revised Penal Code, in relation to Section 5(b) of

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SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

...

SEC. 3. Person convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

<sup>142</sup> 736 Phil. 325, 340–341 (2014) [Per J. Leonen, Third Division].

<sup>143</sup> *Nacar v. Gallery Frames*, 716 Phil. 267, 282–283 (2013) [Per J. Peralta, *En Banc*].

Republic Act No. 7610 and is **SENTENCED** to suffer the indeterminate penalty of 16 years, five months, and one day, as minimum, to 17 years and four months of *reclusion temporal*, as maximum, and to **PAY** a fine amounting to PHP 15,000.00 for each count. He is also **ORDERED** to pay BBB: (a) PHP 50,000.00 as civil indemnity; (b) PHP 50,000.00 as moral damages; and (c) PHP 50,000.00 exemplary damages for each count; and

- (4) in Criminal Case No. 19910, qualified rape of a minor under Article 266-A(1)(d), in relation to Article 266-B(1) of the Revised Penal Code and is **SENTENCED** to suffer the penalty of *reclusion perpetua* without the eligibility of parole. He is also **ORDERED** to **PAY** AAA: (a) PHP 150,000.00 as civil indemnity; (b) PHP 150,000.00 as moral damages; and (c) PHP 150,000.00 exemplary damages.

All monetary awards shall earn interest at the rate of 6% per annum from the date of finality of this Decision until full payment.

The Department of Social Welfare and Development is **DIRECTED** to **REFER** the victims to the appropriate rape crisis center for the necessary assistance to be rendered to the victims and her family, in line with Republic Act No. 8505, or the Rape Victim Assistance and Protection Act of 1998.

**SO ORDERED.”**

  
**JHOSEP Y. LOPEZ**  
Associate Justice

**WE CONCUR:**



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

On official business  
**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARICEL LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

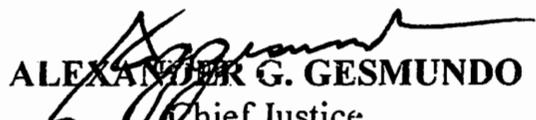
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of this Court's Division.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, and the Division 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 this Court's Division.



**ALEXANDER G. GESMUNDO**  
Chief Justice