



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **09 December 2020** which reads as follows:*

“G.R. No. 249882 (*Elyberto Aspril y Ramos v. People of the Philippines*). – After a review of the records, the Court resolves to **DENY** the petition for failure to sufficiently show that the Court of Appeals (*CA*) committed any reversible error in its March 26, 2019 Decision¹ and October 9, 2019 Resolution,² as to warrant the exercise of the Court’s appellate jurisdiction.

As correctly ruled by the *CA*, all the elements for the crime of Acts of Lasciviousness, in relation to Section 5(b),³ Article III of Republic Act (*R.A.*) No. 7610, were proven by the prosecution’s evidence warranting the affirmance of judgment of the courts *a quo* convicting Elyberto Aspril y Ramos. However, in accordance with prevailing jurisprudence, it is proper to modify the monetary awards. Pursuant to *People v. Tulagan*,⁴ the amount of

¹ *Rollo*, pp. 28-41; penned by Associate Justice Rodil V. Zalameda (now a Member of this Court) with Associate Justices Fernanda Lampas Peralta and Henri Jean Paul B. Inting (now a Member of this Court), concurring.

² *Id.* at 42-43; penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Franchito N. Diamante and Germano Francisco D. Legaspi, concurring.

³ **Section 5. *Child Prostitution and Other Sexual Abuse.*** – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

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

x x x x

(b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victims 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; xxx.

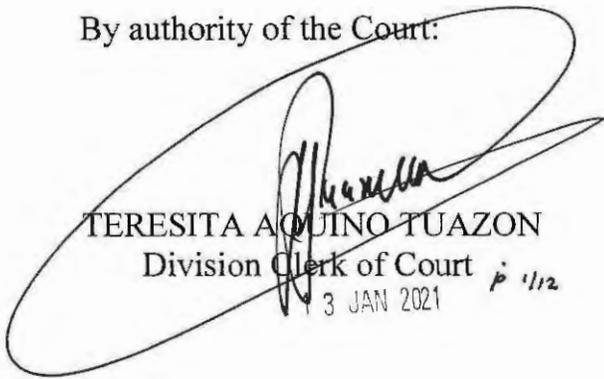
⁴ G.R. No. 227363, March 12, 2019.

civil indemnity, moral damages, and exemplary damages awarded for Acts of Lasciviousness under Article 336⁵ of the Revised Penal Code (*RPC*), in relation to Sec. 5(b), Art. III of R.A. No. 7610, should be Fifty Thousand Pesos (₱50,000.00) each.

WHEREFORE, the Court **DENIES** the petition and **AFFIRMS with MODIFICATION** the March 26, 2019 Decision of the Court of Appeals in CA-G.R. CR No. 40788 finding Elyberto Aspril y Ramos guilty beyond reasonable doubt of the crime of Acts of Lasciviousness under Article 336 of the Revised Penal Code, in relation to Section 5(b), Article III of Republic Act No. 7610. The Court hereby **SENTENCES** him to suffer the indeterminate penalty of twelve (12) years and one (1) day of *reclusion temporal* in its minimum period, as minimum, to fifteen (15) years, six (6) months, and twenty-one (21) days of *reclusion temporal* in its medium period, as maximum; and **ORDERED** to **PAY** civil indemnity in the amount of Fifty Thousand Pesos (₱50,000.00), moral damages in the amount of Fifty Thousand Pesos (₱50,000.00), and exemplary damages in the amount of Fifty Thousand Pesos (₱50,000.00). The amounts awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.

SO ORDERED. (Rosario, J., designated additional member per Special Order No. 2797 dated November 5, 2020)”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court

3 JAN 2021

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⁵ Art. 336. *Acts of lasciviousness.* — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prision correccional*.

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 17
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(Crim. Case No. 96-09)

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Supreme Court, Manila

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CA-G.R. CR No. 40788

*with copy of CA Decision dated 26 March 2019
Please notify the Court of any change in your address.
GR249882. 12/09/2020(195)URES *kliv*