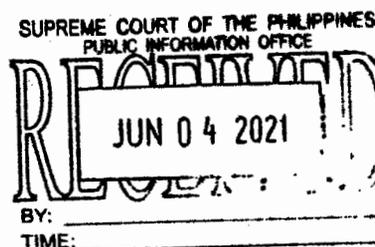




Republic of the Philippines
Supreme Court
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 18, 2021**, which reads as follows:*

“G.R. No. 253915 (*Angelo Lozares Oracion v. People of the Philippines*) – This Petition for Review on *Certiorari* assails the October 25, 2019 Decision¹ and the August 24, 2020 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 38733, which affirmed the April 8, 2016 Decision³ of the Regional Trial Court (RTC), Branch 15 of Manila, in Criminal Case No. 15-31804.

The RTC affirmed the December 1, 2014 Decision⁴ of the Metropolitan Trial Court (MeTC), Branch 22 of Manila, in Criminal Case No. 468401-CR finding petitioner Angelo Lozares Oracion (Oracion) guilty beyond reasonable doubt of the crime of Acts of Lasciviousness as penalized under Article 336 of the Revised Penal Code (RPC).

We have carefully examined the case and resolved to **DENY** the petition. The issues raised by Oracion are factual in nature as they require the re-examination of the evidence presented by both parties to fully determine whether his guilt is duly proven beyond reasonable doubt. This is clearly not within the ambit of an appeal by *certiorari* under Rule 45 of the Rules of Court.

The Court further notes that the Petition suffers from several technical infirmities. It lacks proof of service of the petition upon the adverse party and the CA. Also, although a soft copy thereof was filed, it lacks a verified declaration of electronic submission as required under the Rules on E-Filing (A.M. No. 10-3-7-SC).

¹ *Rollo*, pp. 335-350. Penned by associate Justice Walter S. Ong, and concurred in by Associate Justices Ricardo R. Rosario (now a member of this Court) and Germano Francisco D. Legaspi.

² *Id.* at 356-363.

³ *Id.* at 133-139.

⁴ *Id.* at 87-92.

More importantly, the Petition is filed beyond the prescribed 15-day period for filing a petition for review on *certiorari* under Rule 45 of the Rules Court. To be exact, Oracion appealed by *certiorari* the assailed CA Decision 18 days after the period to appeal had lapsed.

The Court, however, deems it necessary to modify the penalty imposed. Oracion was properly convicted of Acts of Lasciviousness under Article 336 of the RPC, pursuant to our ruling in *People v. Caoili*⁵ and *People v. Tulagan*.⁶ However, we find it imperative to modify the penalty imposed. The MeTC sentenced Oracion to suffer the indeterminate penalty of “five months & 10 days of *arresto mayor* in its medium period, as minimum, to four years and two months of *prision correccional*, as maximum.” The RPC affirmed the penalty imposed by the MeTC. The CA, in turn, made a “clarification that the minimum term of the penalty imposed by the trial court actually falls within the penalty of *arresto mayor* in its maximum period.”⁷

Under Article 336 of the RPC, the crime of Acts of Lasciviousness shall be punished by *prision correccional*. Applying the Indeterminate Sentence Law, and there being no mitigating or aggravating circumstances, the indeterminate penalty to be imposed on Oracion should be four (4) months of *arresto mayor* in its medium period, as minimum, to four (4) years and two (2) months of *prision correccional* in its medium period, as maximum.

In addition, the damages awarded must also be modified to conform to prevailing jurisprudence. Thus, pursuant to *People v. Tulagan*,⁸ Oracion is ordered to pay ₱20,000.00 each as moral and exemplary damages. The Court also finds the award of civil indemnity in the amount of ₱20,000.00 to be in order.⁹

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The October 25, 2019 Decision and August 24, 2020 Resolution of the Court of Appeals in CA-G.R. CR No. 38733 are **AFFIRMED WITH MODIFICATION**. Petitioner Angelo Lozares Oracion is sentenced to suffer the indeterminate penalty of four (4) months of *arresto mayor* in its medium period, as minimum, to four (4) years and two (2) months of *prision correccional* in its medium period, as maximum. He is ordered to pay civil indemnity, moral damages and exemplary damages of ₱20,000.00 each, with interest of six percent (6%) per *annum* from the date of finality of this Resolution until fully paid.

⁵ 815 Phil. 839 (2017).

⁶ G.R. No. 227363, March 12, 2019.

⁷ *Rollo*, p. 349.

⁸ *Supra* note 6.

⁹ *Id.*

SO ORDERED.”

By authority of the Court:

Mis-DCB-H
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *8/2/21*

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 15, Manila
(Crim. Case No. 15-311804)

The Presiding Judge
Metropolitan Trial Court
Branch 22, Manila
[Criminal Case No. 468401-CR]

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