



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 May 2021** which reads as follows:*

**“G.R. No. 248027 (*Oscar B. Guerrero v. People of the Philippines*).**

—

Petitioner Oscar B. Guerrero asks the Court to reverse the verdict of conviction for acts of lasciviousness rendered against him by the Metropolitan Trial Court (MeTC)-Branch 65, Makati City as affirmed by the Regional Trial Court (RTC)-Branch 147, Makati City and the Court of Appeals.

The petition is devoid of merit.

The elements of acts of lasciviousness under Article 336 of the Revised Penal Code (RPC), are: (1) the offender commits any act of lasciviousness or lewdness; (2) it is done by using force or intimidation, or when the offended party is deprived of reason or otherwise unconscious; or when the offended party is under 12 years of age; and (3) the offended party is another person of either sex.<sup>1</sup> As emphasized in *People v. Tulagan*<sup>2</sup> the term lewd is commonly defined as something indecent or obscene; it is characterized by or intended to excite crude sexual desire. That an accused is entertaining a lewd or unchaste design is necessarily a mental process the existence of which can be inferred by overt acts carrying out such intention.

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<sup>1</sup> See *People v. Jagdon, Jr.*, G.R. No. 242882, September 9, 2020.

<sup>2</sup> G.R. No. 227363, March 12, 2019.

All these elements were established here. Complainant AAA<sup>3</sup> categorically and consistently testified that after she had lunch with petitioner, she went to sleep in the room provided by the company. After a while, she was roused from sleep when she felt someone on top of her. It was petitioner. Her shirt and bra were hoisted up and her shorts and underwear were pulled down. She pushed petitioner away but the latter hugged her and pleaded for her not to get mad. She continued to struggle out of petitioner's arms until the latter finally let go and left.<sup>4</sup>

As succinctly decreed by the Court in *Cruz v. People*,<sup>5</sup> in a petition for review on *certiorari* under Rule 45, the Court does not take cognizance of factual issues, let alone, calibrate anew the evidence already assessed and evaluated by the trial court. Accordingly, the Court accords the highest respect to the factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies and the conclusions drawn from its factual findings, more so when the same are affirmed by the Court of Appeals. For judicial experience has shown, indeed, that the trial courts are in the best position to decide issues of credibility of witnesses, having themselves heard and seen the witnesses and observed firsthand their demeanor and deportment and the manner of testifying under exacting examination. So must it be.

Verily, the Court of Appeals did not err in affirming the verdict of conviction against petitioner for acts of lasciviousness.

### ***Penalty***

Article 336 of the RPC penalizes acts of lasciviousness with *prision correccional*, viz.:

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*.

Considering that there was neither aggravating nor mitigating circumstance which attended the commission of the offense, the courts below correctly imposed the indeterminate sentence of four (4) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum, in accord with *People v. Dela Cuesta*.<sup>6</sup>

<sup>3</sup> The real name of the victim, her personal circumstances, and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

<sup>4</sup> *Rollo*, p. 73.

<sup>5</sup> 745 Phil. 54, 66 (2014).

<sup>6</sup> 430 Phil. 742, 753 (2002).

As for damages, though, in addition to the award of moral damages in the assailed decision, civil indemnity and exemplary damages must also be awarded pursuant to *People v. Tulagan*,<sup>7</sup> viz.:

The said award of civil indemnity, moral damages and exemplary damages should be distinguished from those awarded in cases of: (1) Acts of Lasciviousness under Article 336 of the RPC where the imposable penalty is *prision correccional*, the amount of civil indemnity and moral damages should now be fixed at ₱20,000.00 while exemplary damages, if warranted, should also be ₱20,000.00; x x x

Too, applying *People v. Jugueta*,<sup>8</sup> six percent (6%) interest *per annum* on the total monetary award must be imposed from finality of this Resolution until fully paid.

**WHEREFORE**, the petition is **DENIED**. The Decision dated November 8, 2018 and Resolution dated June 17, 2019 of the Court of Appeals in CA-G.R. CR No. 39345 are **AFFIRMED with modification**.

Petitioner Oscar B. Guerrero is found **GUILTY** of **Acts of Lasciviousness** and sentenced him to four (4) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum.

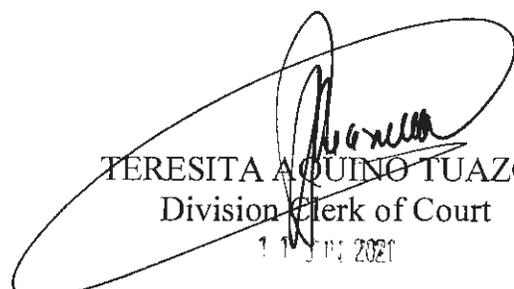
He is further ordered to **PAY** AAA the following amounts:

- (a) **₱20,000.00** as civil indemnity;
- (b) **₱20,000.00** as moral damages; and
- (c) **₱20,000.00** as exemplary damages.

These monetary awards shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

**SO ORDERED.**" (J. Lopez, *J.*, additional member)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
11 JUN 2021

<sup>7</sup> G.R. No. 227363, March 12, 2019.

<sup>8</sup> 783 Phil. 806 (2016).

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 147  
1200 Makati City  
(Crim. Case No. 16-007)

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COURT OF APPEALS (x)  
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Ermita, 1000 Manila  
CA-G.R. CR No. 39345

\*with copy of the CA Decision dated 8 November 2018

*Please notify the Court of any change in your address.*

GR248027. 05/03/2021(68)URES(m)

*fu/a*