

# FIRST DIVISION

[ G.R. No. 248567, November 10, 2020 ]

**ERWIN TORRES Y CASTILLO, PETITIONER, VS. AAA,<sup>[1]</sup>  
RESPONDENT.**

## D E C I S I O N

**CARANDANG, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[2]</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>[3]</sup> dated March 7, 2019 and the Resolution<sup>[4]</sup> dated July 24, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 156429, which annulled and set aside the judgment of acquittal rendered by the Regional Trial Court (RTC) of Quezon City, Branch 107, and instead pronounced Erwin Torres y Castillo (Torres) guilty beyond reasonable doubt of violation of Section 5(b) of Republic Act No. (R.A.) 7610, otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act."

### Facts of the Case

Torres was charged with violation of Section 5(b) of R.A. 7610 in an Information that reads:

That on or about the 14<sup>th</sup> day of October 2012, in Quezon City, Philippines, the abovenamed accused, with force and intimidation did then and there, willfully, unlawfully and feloniously commit an act of child abuse upon one AAA, 12 years old, a minor, by then and there embracing her, taking off her shirt and bra, pulling her shorts and panty, laying her down on top of him then touching her breasts, against her will and consent, which act debase, degrade or demeans the intrinsic worth of dignity of said AAA as a human being, to the damage and prejudice of AAA.

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

On June 10, 2014, Torres pleaded not guilty to the offense charged.<sup>[6]</sup> Thereafter, pretrial and trial ensued. The prosecution presented three witnesses namely: (1) AAA; (2) BBB,<sup>[7]</sup> AAA's mother; and (3) Aida Maria H. Perez, a psychiatrist.<sup>[8]</sup> The version of the prosecution is summarized as follows:

AAA was 12 years old who was born in 1999<sup>[9]</sup> when the incident happened at their house located in Quezon City. Torres was AAA's stepfather being her mother's husband. On October 14, 2012 at around 12:00 p.m., Torres asked AAA to go to his room and give him a massage. AAA complied to Torres' request. When inside the room, Torres suddenly locked the door and turned off the lights. Torres asked AAA to

take off her bra and shirt. He touched AAA's breasts and kissed her from her neck down to her breasts. AAA also claimed that Torres told her to, "*hawakan ko po iyong titi niya para po lumabas iyong tamod niya,*" but AAA refused to do so. AAA averred that Torres only stopped mashing her breasts when he heard the gate being opened. He asked AAA to get out of the room. AAA informed her grandmother about what happened.<sup>[10]</sup>

AAA also narrated that Torres has been molesting her since 2011 by pressing his penis against her butt whenever he would chance upon her standing in front of the kitchen sink and washing the dishes.<sup>[11]</sup> BBB on the other hand testified that she evicted Torres from their house when she found out about the incidents. She claimed that Torres sent her text messages asking for their forgiveness.<sup>[12]</sup>

The defense presented Torres as its sole witness who denied the accusations of AAA. According to Torres, on October 14, 2012, he was at the house with AAA and the other members of the family. They were busy preparing the house for the birthday after-party of Andrea's two-year old half sibling. At 2:00 p.m. of the same day, they left the house for Andrea's two-year old half sibling's 3:00 p.m. party at Max's restaurant. Torres added that he never asked AAA for a massage and that AAA is against his marriage to BBB.<sup>[13]</sup>

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

In its Decision<sup>[14]</sup> dated April 17, 2018, the RTC of Quezon City, Branch 107, acquitted Torres for failure of the prosecution to prove his guilt beyond reasonable doubt.<sup>[15]</sup>

The RTC was not convinced of the veracity of the testimony of AAA and held that her statements fell short of the quantum of evidence required in the prosecution of criminal cases. The RTC noted that AAA's testimony is replete with inconsistencies and lacks specific details on how the acts of sexual abuse was committed by Torres. The RTC, likewise, found conflicting statements between AAA's affidavit and her direct testimony in court.<sup>[16]</sup>

The RTC also held that the elements of coercion or influence must be proved in the commission of violation of Section 5(b) of R.A. 7610 when the victim is a minor not exploited in prostitution. However, in this case, there was no allegation much less proof of coercion or influence.<sup>[17]</sup>

Aggrieved of the acquittal of Torres, AAA filed a Petition for *Certiorari*<sup>[18]</sup> under Rule 65 to the CA.

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

On March 7, 2019, the CA rendered a Decision<sup>[19]</sup> annulling the ruling of the RTC. The CA found Torres guilty beyond reasonable doubt of lascivious conduct under Section 5 (b) of R.A. 7610; sentenced him to suffer the penalty of *reclusion perpetua* without eligibility for parole; and ordered him to pay fine in the amount of P15,000.00, as well as moral damages and exemplary damages amounting to P75,000.00 each.<sup>[20]</sup>

According to the CA, the prosecution proved all the elements of violation of Section 5(b) of R.A. 7610. Tones committed lascivious conduct when he grabbed and mashed AAA's breasts.<sup>[21]</sup> The CA found that being AAA's stepfather, Tones exercises moral ascendancy over the former. AAA was only 12 years old at the time the incidents occurred.<sup>[22]</sup>

Contrary to the ruling of the RTC, the CA held that there were no inconsistencies between the affidavit of AAA and her direct testimony in court. The CA faulted the RTC for not considering the complete affidavit of AAA in ruling for the acquittal of Torres.<sup>[23]</sup>

Torres filed a motion for reconsideration,<sup>[24]</sup> which was denied in a Resolution<sup>[25]</sup> dated July 24, 2019. Hence, Torres filed a Petition for Review on *Certiorari*<sup>[26]</sup> under Rule 45 of the Rules of Court.

The main argument of Torres in his petition is that the CA erred in convicting him for lascivious conduct under Section 5(b) of R.A. 7610 because this violates his constitutional right against double jeopardy after having been earlier acquitted by the RTC.<sup>[27]</sup>

In her Comment, AAA stresses that the RTC committed grave abuse of discretion in acquitting Torres and in ruling that the affidavit of AAA was inconsistent with her direct testimony because the records of the case belie such a conclusion.<sup>[28]</sup>

### **Issue**

The issue in this case is whether the CA violated Torres' right against double jeopardy when it convicted him for lascivious conduct under Section 5(b) of R.A. 7610 even if he was previously acquitted by the RTC.

### **Ruling of the Court**

The petition is meritorious.

A judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.<sup>[29]</sup> This iron clad rule has only one exception: **grave abuse of discretion** that is **strictly limited** whenever there is a **violation of the prosecution's right to due process** such as when it is **denied the opportunity to present evidence** or where the **trial is sham** or when there is a **mistrial**, rendering the judgment of acquittal void.<sup>[30]</sup>

An example of an exception to the finality-of-acquittal rule is the case of *Galman v. Sandiganbayan*<sup>[31]</sup> where the Court remanded the case to the trial court because the previous trial conducted was a mockery. The unique facts surrounding the *Galman* case constitute the very narrow exception to the application of the right against double jeopardy. Hence, in order for the CA to take cognizance of the *certiorari* petition, AAA and the prosecution must have clearly demonstrated that the RTC blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.<sup>[32]</sup>

Here, in setting aside Torres' acquittal, the CA reviewed the evidence presented by the parties before the RTC. The CA held that the RTC mistakenly ruled that there were inconsistencies between the affidavit and direct testimony of AAA. In other words, the CA concluded that the RTC erred in acquitting Torres because of misappreciation of evidence. It is a settled rule that misappreciation of the evidence is a mere error of judgment that does not qualify as an exception to the finality-of-acquittal doctrine. An error of judgment is not correctible by a writ of *certiorari*.<sup>[33]</sup>

In this case, the petition of AAA before the CA is bereft of any allegation, much less, evidence that the prosecution's right to due process was violated or that the proceedings before the RTC were a mockery such that Torres' acquittal was a foregone conclusion.<sup>[34]</sup> It is immaterial whether the RTC was correct in its assessment of the evidence leading to the acquittal of Torres. The fact remains that Torres' right against double jeopardy already attached when the RTC acquitted him. Hence, no amount of error of judgment will ripen into an error of jurisdiction that would have allowed the CA to review the same through a petition for *certiorari*.

**WHEREFORE**, the Petition for Review on *Certiorari* is **GRANTED**. The Decision dated March 7, 2019 and the Resolution dated July 24, 2019 of the Court of Appeals in CA-G.R. SP No. 156429, finding Erwin Torres y Castillo guilty beyond reasonable doubt of lascivious conduct under Section 5(b) of Republic Act No. 7610 are hereby declared **NULL** and **VOID** for violation of his constitutional right against double jeopardy.

**SO ORDERED.**

*Peralta, C. J., Zalameda, and Gaerlan, JJ., concur.*  
*Caguioa, J., See Separate Concurring Opinion.*

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[1] Pursuant to Republic Act No. 7610 or "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; Republic Act No. 9262 or "An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes"; Section 40 of A.M. No. 04-10-11-SC, or the "Rule on Violence against Women and Their Children," effective November 15, 2004; and *People v. Cabalquinto*, G533 Phil. 703 (2006), the real name of the child victim is withheld and, instead, fictitious initials are used to represent her. The personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are also concealed in accordance with *People v. CCC*, G.R. No. 220492, July 11, 2018.

[2] *Rollo*, pp. 30-100.

[3] Penned by Associate Justice Jane Aurora C. Lantion, with the concurrence of Associate Justices Maria Elisa Sempio Diy and Marie Christine Azcarraga-Jacob; *id.* at 10-25.

[4] *Id.* at 26-28.

[5] Id. at 123.

[6] Id. at 11.

[7] Supra note 1.

[8] *Rollo*, p. 126.

[9] *CA rollo*, p. 51.

[10] *Rollo*, pp. 11-12.

[11] Id. at 12.

[12] Id. at 12-13.

[13] Id. at 13.

[14] Penned by Judge Jose L. Bautista; id. at pp. 125-131.

[15] Id. at 131.

[16] Id. at 126.

[17] Id. at 129-130.

[18] Id. at 132-139.

[19] Supra note 3.

[20] *Rollo*, p. 24.

[21] Id. at 18.

[22] Id. at 19.

[23] Id. at 21.

[24] Id. at 210-282.

[25] Id. at 26-28.

[26] Id. at 30-100.

[27] Id. at 77.