

## THIRD DIVISION

[ G.R. No. 226991, December 10, 2018 ]

**ERLINDA ESCOLANO Y IGNACIO, PETITIONER, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**GESMUNDO, J.:**

This appeal by certiorari<sup>[1]</sup> seeks to reverse and set aside the June 15, 2016 Decision<sup>[2]</sup> and August 12, 2016 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CR. No. 37239. The CA affirmed the December 5, 2014 Decision<sup>[4]</sup> of the Regional Trial Court of Quezon City, Branch 94 (RTC), finding Erlinda Escolano y Ignacio (*petitioner*) guilty beyond reasonable doubt of violation of Section 10(a) of Republic Act (R.A.) No. 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.

#### Antecedents

In an Information, dated January 13, 2011, petitioner was charged with violation of Sec. 10(a) of R.A. No. 7610. The accusatory portion of the information states:

That on or about the 30th day of May 2009 in [XXX],<sup>[5]</sup> Philippines, the above-named accused, did then and there wilfully, unlawfully, and feloniously commit an act of child abuse/cruelty against [AAA],<sup>[6]</sup> 11 years old; [BBB], 9 years old; [CCC], 8 years old, all minors, by then and there making hacking gestures with a bolo and uttering insults and invectives at them, which act debases, demeans and degrades the intrinsic worth and dignity of the said minors as human being[s], to the damage and prejudice of the said offended parties.

CONTRARY TO LAW.<sup>[7]</sup>

Upon arraignment on February 28, 2011, petitioner pleaded not guilty to the offense charged. Thereafter, trial on the merits ensued.

#### **Version of the Prosecution**

The prosecution presented the following witnesses: AAA, BBB, and CCC, private complainants; DDD,<sup>[8]</sup> mother of complainants; and Barangay Peace and Security Officer Wilfredo Lim (*BPSO Lim*). Their testimony tended to establish the following:

AAA testified that he was 11 years old at the time of the incident; that on May 29, 2009, at around eleven o'clock in the morning, he and his two brothers: BBB, 9 years old, and CCC, 8 years old, were flying paper planes from the third floor of their house when the planes landed in front of the house of Perlin Escolano (*Perlin*),<sup>[9]</sup> the daughter of petitioner. Perlin uttered "*putang ina*" directed at CCC.

The following day, the siblings saw Perlin in front of their house. Private complainants got three ketchup sachets from their refrigerator and threw these at her. However, Perlin went inside their house so it was petitioner who was twice hit instead by the sachets. Petitioner exclaimed, "*Putang ina ninyo, gago kayo, wala kayong pinag-aralan, wala kayong utak, subukan ninyong bumaba dito, pakakawalan ko ang aso ko, pakakagat ko kayo sa aso ko.*"<sup>[10]</sup> Private complainants reported the incident to their mother DDD when she arrived from the market.

When DDD confronted petitioner, the latter uttered "*nagpuputa ka, puta-puta ka.*" Petitioner then went inside her house, came out with a bolo, and threatened DDD, "*walang demanda demanda sa akin, basta bumaba kayo dito lahat, papatayin ko kayong lahat. Tatagain ko kayo, papatayin ko kayo.*" The incident left private complainants terrified. They only went downstairs when they had a companion; and they no longer played as they usually did. BBB and CCC corroborated AAA's testimony that they threw ketchup sachets at Perlin because she uttered bad words against CCC.

On the other hand, DDD testified that on May 30, 2009, private complainants told her about the incident, thus, she confronted petitioner. The latter pointed her finger at her and uttered, "*Hoy, putang ina mo,*" got a bolo, and yelled "*Kaya ninyo ito? Pagtatatagain ko kayo.*"<sup>[11]</sup> Thereafter, DDD noticed a change in the behavior of private complainants as they no longer played downstairs and they even transferred residence because of the incident. DDD averred that her children were traumatized, and they were in constant fear because of petitioner's threat.

BPSO Lim corroborated the testimony of private complainants that he heard petitioner utter, "*Putang-ina ninyo, wala ng dimandemanda, papatayin ko na lang kayo, lalaban na lang ako ng patayan.*" He tried to pacify the parties. He stated that petitioner was being held by his co-BPSO Rolando Estrella as she was shouting invectives while brandishing a bolo. After the incident, he brought petitioner inside the latter's house and the bolo was confiscated by his fellow BPSO.

### **Version of the Defense**

The defense offered the testimonies of Rosario Bondoc (*Bondoc*), Rodolfo Niebres (*Niebres*), and petitioner.

Bondoc testified that petitioner and DDD had been neighbors since 1992. Sometime on May 30, 2009, she saw petitioner sweeping her house premises. Then, she heard petitioner warning private complainants that she would report them to their mother DDD. Thereafter, DDD approached petitioner's house yelling at her, "*Poñeta ka, putang ina mo, bobo, wala kang pinag-aralan.*" Bondoc also said that a BPSO accompanied DDD to her house to pacify her since DDD had started the quarrel. Bondoc also averred that petitioner did not brandish a bolo against DDD and private complainants. She added that the parties had a previous disagreement or misunderstanding involving DDD's construction of a high-rise home.

In his testimony, Niebres averred that at around eleven o'clock in the morning of May 30, 2009, he heard petitioner arguing only with DDD and not with private complainants; that he did not see the petitioner brandishing a bolo; and that petitioner merely lightly reprimanded private complainants for throwing stones that hit petitioner's roof.

Petitioner, on her part, testified that in the morning of May 30, 2009, while she was sitting beside the gate of her house, AAA threw a sachet of ketchup at her. She scolded AAA saying, "*Huwag kang mamamato.*" Instead of desisting, AAA and his brothers BBB and CCC continued to throw ketchup sachets. Thereafter, AAA shouted, "*Linda, putang ina mo, wala kang kwenta.*" Petitioner warned that she would report them to DDD, their mother. DDD suddenly arrived uttering invectives and pointing her finger at petitioner while uttering, "*Linda, putang ina mo! Bobo ka! Wala kang pinag aralan!*"

### **The RTC Ruling**

In its December 5, 2014 decision, the RTC found petitioner guilty of violating Sec. 10(a) of R.A. No. 7610. It gave credence to the clear testimony of private complainants. The RTC noted the gravity of petitioner's act of threatening private complainants by wielding and making hacking gestures with a bolo while uttering invectives. It took into account the negative effect of petitioner's act that resulted in private complainants' transfer of residence because they were in constant fear. The dispositive portion of the RTC decision reads:

**WHEREFORE**, premises considered, this court finds accused Erlinda Escolano y Ignacio guilty beyond reasonable doubt of the crime of Violation of Section 10(a) of Republic Act No. 7610 otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act and she is hereby sentenced to suffer an indeterminate penalty of Four (4) years, Nine (9) months and Eleven (11) days of *prision correccional* as minimum, to Six (6) years and One (1) day of *prision mayor* as maximum and to pay the costs.

SO ORDERED.<sup>[12]</sup>

Aggrieved, petitioner filed an appeal before the CA. On February 7, 2011, the RTC issued a Commitment Order <sup>[13]</sup> against petitioner; hence, she was imprisoned pending appeal.

### **The CA Ruling**

In its June 15, 2016 decision, the CA affirmed the ruling of the RTC. It held that the acts of petitioner caused untoward repercussions in the life and dignity of private complainants. The incident made hostile the environment for private complainants where they could no longer freely live and enjoy their childhood and were forced to move out. Private complainants were even deprived of their chance to play games and enjoy leisure time within their own home.<sup>[14]</sup> The CA ruled in this wise:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**. The assailed Decision dated December 5, 2014 of the RTC, Branch 94, Quezon City in Criminal Case No. Q-11-168269 is hereby **AFFIRMED**.

SO ORDERED.<sup>[15]</sup>

Hence, this petition.

**ISSUE**

## WHETHER THE CA ERRED IN AFFIRMING PETITIONER'S CONVICTION OF VIOLATION OF SECTION 10(A) OF R.A. NO. 7610.

Petitioner averred that private complainants' inconsistencies could only have come from prevaricated testimonies and judicial admissions which engender reasonable doubt in her favor.<sup>[16]</sup> Also, the bolo allegedly used by petitioner to make hacking gestures while uttering invectives against private complainants should be disregarded in light of the unrelenting disavowals in the testimonies of AAA, BBB, and CCC.<sup>[17]</sup> Aside from the point that the existence of the bolo was not established, petitioner averred that the testimony of DDD had no probative value to support the alleged threatening remarks against her children. The testimony of DDD that she did not exactly hear the statements made by the petitioner and the "sumbong" of her children constitute hearsay evidence.<sup>[18]</sup> Petitioner also argued that the purported hacking gesture with a bolo was actually geared towards DDD.<sup>[19]</sup>

In its Comment,<sup>[20]</sup> dated March 22, 2017, the Office of the Solicitor General (OSG) averred that the testimonies of the prosecution witnesses are consistent on all material points showing that petitioner's words, demeanor, and actions towards them constitute the crime as charged. The OSG maintained that the incident caused the children to become frantic due to such threat; and it affected them so much that they had to move as far away as possible from the petitioner. Further, the OSG posits that the non-presentation of the "bolo" used by petitioner to threaten the children does not offset the categorical statements of the prosecution witnesses regarding its existence.<sup>[21]</sup>

### THE COURT'S RULING

The petition is partially meritorious.

***Generally, a question of fact cannot be entertained by the Court.***

Petitioner essentially raises the issue of whether the testimonies of the prosecution's witnesses were consistent and credible. The question posited is evidently factual because it requires an examination of the evidence on record. Well settled is the rule that the Supreme Court is not a trier of facts. The function of the Court in petitions for review on certiorari is limited to reviewing errors of law that may have been committed by the lower courts.<sup>[22]</sup>

#### *Exceptions*

Nevertheless, the Court has enumerated several exceptions to this rule: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion;

- (10) the findings of the Court of Appeals are beyond the issues of the case; and  
(11) such findings are contrary to the admissions of both parties.<sup>[23]</sup>

Here, one of the exceptions exists – that the judgment is based on misapprehension of facts. To finally resolve the factual dispute, the Court deems it proper to tackle the factual question presented.

*Section 10(a) of R.A. No. 7610 requires an intent to debase, degrade, or demean the intrinsic worth of a child victim*

Sec. 10(a), Article VI of R.A. No. 7610 states:

Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and other Conditions Prejudicial to the Child's Development. —

- (a) Any person who shall commit any other acts of **child abuse**, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period. (Emphasis supplied)

On the other hand, child abuse is defined by Section 3(b) of Republic Act No. 7610, as follows:

Section 3. Definition of terms. —

x x x x

- (b) "Child Abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:
- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
  - (2) **Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;**
  - (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
  - (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.  
<sup>[24]</sup> (Emphasis supplied)

Verily, Sec. 10(a) of R.A. No. 7610, in relation thereto, Sec. 3(b) of the same law, highlights that in child abuse, the act by deeds or words must debase, degrade or