

SIXTH DIVISION[*]

[CA-G.R. CR-HC NO. 34937, February 27, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDMAR DE GUZMAN, ACCUSED-APPELLANT.

D E C I S I O N

PERALTA, JR., E. B., J.:

From an evaluation of his guilt for child abuse, codified in Section 3 (b)(2), in relation to Section 10 (a) of Republic Act No. 7610 (RA 7610), otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, accused Edmar De Guzman interposed an appeal^[1] for Us to assess the verdict below.^[2]

With the reiterated plea of innocence to the charge,^[3] trial commenced through the presentation of AAA^[4] and the stipulated^[5] testimony of Barangay Tanod Eduardo Espino. It was established that AAA was only fifteen (15) years old during the incident based on her nativity on July 31, 1995.^[6] AAA is a minor^[7] as defined in RA 7610.^[8]

On July 18, 2011, around 9:30 in the morning, AAA was in front of the gate of her classmate's house at Gaanan St., Maladay, Valenzuela City. She was waiting for her classmate because they would usually walk to school together.^[9]

Thereat, accused, a former neighbor, appeared and told AAA that he will accompany her to school. Allegedly, accused suddenly kissed AAA on the left cheek and touched her back towards her buttocks. Accused then blew cigarette smoke on the face of AAA, and he ran off. AAA cried and became furious as a consequence.^[10]

AAA relayed the incident to some of her classmates and the incident reached AAA's mother which led to the filing of the complaint before the barangay and subsequent arrest of the accused. Fact discovery also demonstrated that prior to the incident, accused would wait for AAA and he would then block her path in the middle of the street. At one time, appellant pointed a knife at AAA and her classmates.^[11]

On December 7, 2011, the prosecution formally offered its evidence and rested its case.

Amidst the accusation, accused refuted the People's version and he explained that he was merely joking around with the victim, who is the childhood friend of her younger sister.^[12]

It was asserted by the accused that on July 18, 2011, at around 8:00 in the

morning, he was at Gaanan St., Maladay St., Valenzuela City, but he denied that he kissed AAA on the cheek or touched her at her back. He also claimed that the complaint was filed against him by private complainants because of the grudge entertained by AAA's mother against defendant's father.^[13]

After the trial, the court a quo agreed with the prosecution and sentenced the accused to suffer the penalty of four (4) years, nine (9) months and eleven (11) days of prision correccional, as minimum, to six (6) years, eight (8) months and one (1) day of prision mayor, as maximum.^[14]

As argued by the parties on appeal, the issue before Us called for calibration of the evidence from both sides of the legal fulcrum.

It was postulated by the accused that his guilt was not demonstrated beyond reasonable doubt because the alleged acts of kissing AAA on the cheek, puffing of a cigarette smoke on her face and touching her back were all based on the sole testimony of AAA. Moreover, the appellant theorized that even assuming that he did commit the act complained of, there can be no peril to speak of since the prosecution failed to prove that such demeanor debased, degraded, or demeaned AAA's dignity.

We disagree with appellant's submissions.

Under *Section 3 (b) (2) of R.A. No. 7610*, child abuse refers to the maltreatment of a child, whether habitual or not, which can be:

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(2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

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in conjunction with *Section 10 (a) of R.A. No. 7610*:

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 abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 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.

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Undoubtedly, the recital on the Information can be equated with child abuse under *Section 10 (a) of R.A. No. 7610*. In particular, there were details concerning: (1) the minority of AAA as shown in her birth certificate; (2) the acts of the accused of kissing AAA on the cheek, blowing smoke on her face and touching her back to buttocks, which constituted physical abuse committed by the accused; and (3) such actuations debased, degraded or demeaned the intrinsic worth and dignity of AAA as

a child and as a human being.

Let Us now reflect pertinent passage from AAA's testimony:^[15]

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FISCAL STA. CRUZ:

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Q: How old are you AAA?

A: I am now 16 years old, sir.

Q: When is your birthday?

A: July 31, 1995, sir.

Q: If I show you your birth certificate, would you be able to recognize it?

A: Yes, sir.

Q: I am showing to you a Certificate of Live Birth of AAA with date of birth as 31 July, 1995. Will you look at this and tell us if this is the birth certificate that you are referring to?

A: Yes, sir.

FISCAL STA. CRUZ:

The witness your Honor, identified Exhibit C.

Q: Now AAA do you still remember where you were on July 18, 2011 at about 9:30 in the morning?

A: Yes, sir.

Q: Where were you at that time?

A: I was in the house of my classmate because I was waiting for her because we will go to school together, sir.

Q: Where is this house of your classmate?

A: It is located at Gaanan Street, Malanday, Valenzuela City, sir.

Q: So do you remember if you encountered Edmar de Guzman at

that time?

A: Yes, sir.

Q: And if you see this Edmar de Guzman, would you be able to recognize him?

A: Yes, sir.

Q: Will you look around and tell us if he is here?

A: Yes, sir.

Q: Will you point to him?

A: That man, sir.

INTERPRETER:

The witness pointed to a man inside the courtroom who when asked to identify himself replied, Edmar De Guzman.

FISCAL STA. CRUZ:

Q: So at that time you encountered this Edmar De Guzman were you inside or outside the house of your classmate?

A: Outside their house, in the gate, sir.

Q: And when you encountered this Edmar De Guzman do you remember if anything bad happened to you?

A: Yes, sir.

Q: What was that bad thing that happened to you?

A: He told me that he will accompany me to school and he suddenly kissed me, sir.

COURT:

Q: Where did he kiss you?

A: Here, your Honor.

INTERPRETER:

The witness pointed to her left cheek.