

SPECIAL TWELFTH DIVISION

[CA–G.R. CR No. 35729, June 10, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO SANTOS Y SUICO, ACCUSED-APPELLANT.**

D E C I S I O N

DICDICAN, J.:

This is an appeal from the Decision^[1] rendered by Judge Rolando L. Bulan of Branch 77 of the Regional Trial Court of the Third (3rd) Judicial Region in Malolos City, Bulacan ("trial court") on October 8, 2012 in Criminal Case No. 717-M-2006 convicting herein accused-appellant Danilo Santos y Suico ("accused-appellant") of the offense of acts of lasciviousness under Article 336 of the Revised Penal Code in an Information^[2] which reads:

"That on or about the 12th day of February, 2005, in the municipality of Obando, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, with lewd designs, commit acts of lasciviousness upon AAA, a minor 5 years of age, by then and there rubbing his penis into the vagina of the said AAA against her will and consent, thereby endangering the health and safety and badly affecting the psychological and emotional well being of said AAA.

"Contrary to law."

Upon being arraigned of the charge against him, the accused-appellant entered a plea of not guilty.^[3] Subsequently, a Pre-trial^[4] was conducted by Judge Bulan on September 12, 2007 where the parties stipulated on the identity of the accused-appellant and the jurisdiction of the trial court. A trial on the merits of said case ensued thereafter.

During the trial, the prosecution adduced in evidence the testimonies of the private offended party, AAA, a minor, and her mother, BBB. For his part, the accused-appellant adduced in evidence his own testimony, as well as the testimony of Jessel Villaflores, a niece of the accused-appellant.

The prosecution's recital of facts is summarized as follows:

The first witness for the prosecution was BBB who was the mother of the minor private offended party AAA. BBB stated that the accused-appellant was their neighbor at Panghulo, Obando, Bulacan. She recalled that, on February 12, 2005, AAA told her that the accused-appellant removed the shorts of AAA and, thereafter, the accused-appellant rubbed his penis on her genitalia. BBB then immediately checked the private part of her daughter if it had blood on it but BBB saw nothing. Afterwards, BBB sought the help of a barangay tanod who, in turn, asked for the

assistance of the police officers of Obando, Bulacan. The accused-appellant was then arrested and he was brought to the police station where an investigation was conducted regarding the incident.

The next witness for the prosecution, private offended party AAA, identified the accused-appellant in open court when she testified. AAA averred that she knew the accused-appellant because he was the brother of one "Kuya Buboy" who was their neighbor. AAA then went on to narrate that she met the accused-appellant on February 12, 2005 at the place of Kuya Buboy which is located beside their house. According to AAA, the accused-appellant put himself on top of her and he rubbed his whole body on top of the body of AAA, particularly the lower part of the body of the latter. After the incident, AAA stated that she went straight to Che-che who was the niece of the accused-appellant and the same person who invited her to the house of Kuya Buboy.

For his part, the accused-appellant vehemently denied the accusations hurled against him by the prosecution. He claimed that, on February 12, 2005, at around 4:00 o'clock in the afternoon, he was at the house of his brother, Salvador de Jesus @ Buboy, watching the television at the second floor of the house while AAA, who was then five (5) or six (6) years of age, was downstairs playing with his niece. Thereafter, the accused-appellant averred that AAA went upstairs and requested him to remove her *maong* shorts so that she could urinate. AAA then went down still wearing her underwear and, after a while, AAA went upstairs again and requested the accused-appellant to assist her in putting back on her *maong* shorts. However, because of so much strength that was exerted in lifting up AAA, both the latter and the accused-appellant swayed and lost their balance that the latter accidentally fell on top of AAA. Afterwards, the accused-appellant was surprised by the reaction of AAA when she said "*huwag po, huwag po*". Finally, when both of them were able to get up, the accused-appellant again pulled up and fixed the shorts of AAA before the latter went downstairs.

The second witness for the defense, Jessel Villaflores ("Che-che"), testified that, at around 4:00 o'clock in the afternoon of February 12, 2005, she was defacating on the bridge which was located outside the house of her Tito Buboy at Panghulo, Obando, Bulacan. According to Che-che, she was playing at the said house along with AAA and another playmate named Diane while the accused-appellant was watching television in the living room. While they were playing, AAA told Che-che that she would urinate and the latter told AAA that she would go with her. At that time, AAA was wearing skimpy shorts with garterized waistline that AAA had to ask for help from the accused-appellant in order to remove the said shorts. Thereafter, AAA and Che-che went to the bridge outside the house of Buboy where both of them urinated.

Later, Che-che narrated that she defacated in the bridge while AAA went back inside the house of Buboy where AAA again sought the help of the accused-appellant to put back on the shorts of AAA. Afterwards, they played again and went outside the house of Buboy. After playing, however, Che-che claimed that AAA suddenly cried and went home.

On October 8, 2012, the court *a quo* rendered a Decision, the dispositive portion of which reads: