



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECORDED
OCT 16 2019
BY:
TIME: 8:41

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 235783

Present:

- versus -

CARPIO, *Acting C.J.*,
Chairperson,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER, and
ZALAMEDA, *JJ.*

ANTHONY CHAVEZ y VILLAREAL
@ ESTONG and MICHELLE BAUTISTA
y DELA CRUZ,
Accused,

ANTHONY CHAVEZ y VILLAREAL
@ ESTONG,
Accused-Appellant.

Promulgated:

25 SEP 2019

x-----
Marlene Gonzales-Sison

DECISION

CARPIO, *Acting C.J.*:

The Case

Before the Court is an appeal assailing the Decision¹ dated 11 August 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08563. The CA affirmed the Decision² dated 1 June 2016 of the Regional Trial Court (RTC) of Pasig City, Branch 261, in Criminal Case Nos. 140189 and 140190, convicting appellant Anthony Chavez y Villareal @ Estong (Estong) of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code. In Criminal Case No. 140190, the RTC also convicted Estong and Michelle Bautista y Dela Cruz (Bautista) of violating Section 5(b) of Republic Act No. 7610 (RA 7610), otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”

¹ *Rollo*, pp. 2-25. Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Socorro B. Inting and Rafael Antonio M. Santos concurring.

² *CA rollo*, pp. 42-53. Penned by Judge Florian Gregory D. Abalajon.

u

In Criminal Case No. 140189, Estong was charged with rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353. The Information states:

On or about May 15, 2009, in Pasig City and within the jurisdiction of this Honorable Court, the accused, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse upon the person of AAA, a minor, thirteen (13) years old, against her will and consent.

Contrary to law.³

In Criminal Case No. 140190, Estong and Bautista were both charged with violation of Section 5(b) of RA 7610. The Information states:

On or about May 17, 2009, in Pasig City and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and both of them mutually helping and aiding each other, x x x accused Anthony Chavez y Villareal, alias Estong with lewd designs, by means of force and intimidation, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness upon the person of BBB, a minor, twelve (12) years old, by massaging her breast, licking her vagina and forc[ing] her to hold his penis, all against her will and consent; while accused Michelle Bautista y Dela Cruz, as accomplice, cooperated in the execution of the offense by supplying material aid in the execution of the offense in an efficacious way – that is by inviting the minor victim to the place of the accused and while performing the lascivious act upon the person of [the] minor victim, Michelle Bautista was watching; which acts are prejudicial to [the] normal growth and development of the complainant as a minor or as a human being.

Contrary to law.⁴

Upon arraignment, Estong and Bautista entered a plea of not guilty. Trial ensued.

The Version of the Prosecution

The prosecution presented the first victim, AAA,⁵ on the witness stand. AAA, then a fourteen (14) year old high school student testified that on 15 May 2009, while AAA was in her grandmother's house, Estong invited her to his house to watch television. BBB went inside but left after a while. After BBB left, Estong played an x-rated film. While Estong and AAA were watching the x-rated film, Estong started to remove AAA's panty. After undressing AAA, Estong then inserted his penis into AAA's vagina. AAA allegedly resisted but Estong held her two hands. According to AAA, the

³ Id. at 42.

⁴ Id. at 43.

⁵ In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims.

sexual abuse lasted for twenty-five minutes. Estong then gave AAA Twenty Pesos (₱20) after the incident. AAA then went out of the house while Estong remained inside.⁶

AAA was outside Estong's house when her father arrived. AAA's father asked AAA what she was doing there and AAA did not answer. According to AAA, she did not immediately tell her father of the alleged rape because AAA was afraid of Estong and her father. According to AAA, she only told her father about what Estong did to her when another victim, BBB, filed a complaint in the barangay against Estong. Upon learning of the incident, AAA's father brought her to Rizal Medical Center to undergo a medical examination. On cross-examination, AAA claimed that the incident on 15 May 2009 was not the first time Estong sexually abused her. AAA claimed that there were five (5) prior incidents of sexual advances against her by Estong but despite of which, she still heeded the invitation of Estong inside his house.⁷

On 28 April 2010, BSF Edelito A. Aranda (BSF Aranda), a member of the Barangay Security Force of Pasig City, took the witness stand. According to BSF Aranda, on 18 May 2009, he was on duty at the time BBB's mother called them to report that Estong raped BBB. Upon receiving the complaint, BSF Aranda proceeded to the house of BBB's mother. However, during that time, through the help of Bautista, Estong had already escaped. BSF Aranda then chased Estong to Maybunga where BSF Aranda arrested Estong.⁸

On 20 October 2010, BBB, the second victim, took the witness stand. BBB, who was then fourteen (14) years old during the alleged rape, testified that on 17 May 2009 at around 8:30 in the evening, while BBB was at her neighbor's house, AAA called her. After going down to her neighbor's house, Bautista called BBB to buy ice and softdrinks. BBB then bought the items and brought the same to the house of Estong and Bautista. Bautista then closed the door and told BBB that they would just play cards. Estong, who was in the same room, then undressed BBB and caressed BBB's vagina. Estong then mashed and licked BBB's breast. According to BBB, Bautista was just watching while she was being sexually abused by Estong. The daughter of BBB's neighbor saw them and kicked the door, forcing Estong to open it. The said neighbor then requested the barangay officials to arrest Estong. According to BBB, she and AAA were friends and neighbors. BBB alleged that the sexual abuse committed to her had affected her schooling.⁹

On 6 April 2011, Eva C. Galvez (Galvez) testified that she and, both, Estong and Bautista were living in the same house. Galvez, together with her family, was occupying the upper portion of the house, while Estong and

⁶ *Rollo*, p. 5.

⁷ *Id.* at 5-6.

⁸ *Id.* at 6.

⁹ *Id.* at 7.

Bautista were occupying the lower portion.¹⁰ Galvez testified and confirmed that she saw Estong molesting BBB and said that Bautista was in the same room watching and not doing anything. Galvez claimed that while she was resting, her daughter rushed upstairs and told her that Estong and BBB were doing something downstairs. Galvez immediately went down to verify the information and Galvez saw Estong and BBB naked. Estong was sitting on the chair while holding his penis and one of his hands was mashing the breast of BBB. Bautista was in the same room washing and slicing meat. According to Galvez, there was no indication that Bautista tried to stop or prevent Estong from molesting BBB. Galvez claimed that she heard Bautista utter the words: “patay nahuli tayo ni Ate Eva.” BBB then told Galvez that she was molested by Estong.¹¹

Finally, the prosecution presented PCI Ian Virtucio. PCI Virtucio testified and confirmed the findings of the Medico-Legal Report prepared by PCI Mamerto Bernabe.¹²

The Version of the Defense

The defense presented Estong and Bautista. Estong denied the allegations of the prosecution. Estong claimed that AAA was just his neighbor and he did not know BBB. Estong also claimed that he was sleeping in his rented house in Pasig City during the time the alleged rape of AAA happened. Bautista also denied the allegations of the prosecution. Bautista alleged that she could not have been an accomplice because she was working as a Metro Aide, sweeping the streets, when the alleged sexual abuse against BBB was committed by Estong.¹³

The Ruling of the RTC

In a Decision dated 1 June 2016, the RTC found Estong guilty of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code. The RTC also found Estong and Bautista guilty of violating Section 5(b) of RA 7610. In convicting both Estong and Bautista, the trial court found that: (1) all the elements of the crime of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353, in relation to Section 5(b) of Republic Act No. 8369 and violation of Section 5(b) of RA 7610 are present; (2) the testimonies of AAA and BBB are credible because they were convincingly delivered in a straightforward manner; (3) the testimony of BBB was corroborated on material points by the testimony of prosecution witness Galvez; and (4) Estong and Bautista’s defenses of denial

¹⁰ Id. at 8.

¹¹ Id. at 8-9.

¹² Id. at 9.

¹³ Id. at 10-11.



and alibi cannot prevail because they are both weak and self-serving.¹⁴

The RTC held that the prosecution was able to prove beyond reasonable doubt all the elements of rape and child abuse. The RTC found that Estong, through force and intimidation, had carnal knowledge of AAA, a minor, against her will. The RTC held that Estong was also guilty of sexual abuse under Section 5(b) of RA 7610 against BBB. The RTC ruled that Bautista was guilty beyond reasonable doubt as an accomplice to the commission of the crime of sexual abuse.

The dispositive portion of the RTC Decision reads:

WHEREFORE, in light of all the foregoing considerations, judgment is hereby rendered as follows:

- 1) In Criminal Case No. 140189, accused *Anthony Chavez y Villareal @ Estong*, is hereby found GUILTY beyond reasonable doubt of the crime of Rape defined and penalized under Art. 266-A, par. 1 (a) of the Revised Penal Code as amended by R.A. 8353 and in further rel. to Sec. 5(a) of R.A. 8369 and is hereby sentenced to suffer the penalty of *reclusion perpetua*. In addition, he is hereby ordered to pay AAA the amount of ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱25,000.00 as exemplary damages.
- 2) In Criminal Case No. 140190, accused *Anthony Chavez y Villareal @ Estong*, is hereby found GUILTY beyond reasonable doubt for Violation of Section 5(b) of R.A. 7610 and accused Michelle Bautista y Dela Cruz as an accomplice to its commission.

Applying, the indeterminate sentence law, accused *Anthony Chavez y Villareal @ Estong* is hereby sentenced to suffer the penalty of 8 years *prision mayor* as minimum to 14 years, 4 months and 1 day of *reclusion temporal*, as maximum, while accused Michelle Bautista y Dela Cruz, being an accomplice of the crime is hereby sentenced to suffer the penalty of 4 years and 2 months of *prision correccional*, as minimum to 8 years and 1 day of *prision mayor* as maximum.

SO ORDERED.¹⁵

¹⁴ Id. at 12.

¹⁵ CA rollo, p. 53.

The Ruling of the Court of Appeals

In a Decision dated 11 August 2017, the CA affirmed with modification the ruling of the RTC. The CA held that Estong was guilty of the crime of rape. The CA held that all the elements of the crime of rape under the Revised Penal Code were present. The CA also affirmed the ruling of the RTC that both Estong and Bautista were guilty of sexual abuse. In Criminal Case No. 140189, the CA modified the award of exemplary damages by increasing it to ₱30,000.00 in addition to civil indemnity and moral damages of ₱75,000.00 each. In Criminal Case No. 140190, the CA increased the award of moral damages to ₱50,000.00. The dispositive portion of the CA's decision reads:

WHEREFORE, premises considered, the instant appeal filed by oppositor-appellant is hereby DISMISSED. The assailed Decision is AFFIRMED with MODIFICATION with respect to the award of exemplary damage[s] and imposition of interest on all civil liabilities in Criminal Case No. 140189 and the imposition of moral damage[s] and interest thereon in Criminal Case No. 140190, respectively, thus:

In Criminal Case No. 140189[,] appellant is ordered to pay AAA the increased amount of ₱30,000 as exemplary damages in addition to civil indemnity and moral damages of ₱75,000.00 each. An interest of six percent (6%) *per annum* on all the aforesaid civil liabilities to be reckoned from the finality of this decision until full payment shall be imposed.

In Criminal Case No. 140190[,] appellant is ordered to pay BBB the amount of ₱50,000.00 as moral damages and an interest of 6% *per annum* shall be imposed thereon to be reckoned from the finality of this decision until full payment.

SO ORDERED.¹⁶

Hence, this appeal.

The Issues

Whether Estong is guilty of rape under under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353.

Whether Estong and Bautista are guilty of sexual abuse under Section 5(b) of RA 7610.

¹⁶ *Rollo*, p. 24.

h

The Ruling of this Court

In Criminal Case No. 140189, this Court reverses the ruling of the CA and acquits Estong of the crime of rape on the ground that the element of force or intimidation is absent. The prosecution did not prove beyond reasonable doubt the existence of force or intimidation as an element of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353.

In Criminal Case No. 140190, this Court sustains the ruling of the CA and convicts both Estong and Bautista of sexual abuse under Section 5(b) of RA 7610. This Court sustains the finding of the CA that all the elements of sexual abuse under Section 5(b) of RA 7610 were committed by Estong to BBB. Bautista participated in the crime of sexual abuse as an accomplice.

***Estong is not guilty of the rape of AAA.
The prosecution failed to prove that the carnal knowledge between Estong and AAA was accompanied by force or intimidation on the part of Estong.***

Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, defines the crime of rape, to wit:

ART. 266-A. *Rape, When and How Committed.* – Rape is committed –

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

(a) Through force, threat or intimidation;

(b) When the offended party is deprived of reason or is otherwise unconscious;

(c) By means of fraudulent machination or grave abuse of authority;

(d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person. (Emphasis supplied)

For the charge of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353, to prosper, the prosecution must prove that: (1) the male offender had carnal knowledge of a woman; and (2) he accomplished the said act through force, threat or intimidation.¹⁷ In rape cases, if the woman is under twelve (12) years of age, proof of force or intimidation is not required to establish statutory rape. **However, if the woman is twelve (12) years of age or over at the time she was violated, sexual intercourse through force, violence, intimidation or threat must be proven by the prosecution.** In Criminal Case No. 140189, Estong was charged with the rape of AAA. The Information charged Estong with having carnal knowledge of AAA, then thirteen (13) years old, without her consent by means of force or intimidation. Notably, the burden of proof rests with the prosecution to establish that Estong's carnal knowledge of AAA was accompanied by force or intimidation. In the present case, the CA affirmed the finding of the RTC that the prosecution established beyond reasonable doubt that Estong exerted force or intimidation when he had carnal knowledge of AAA.

We do not agree.

In convicting Estong of the crime of rape against AAA, both the RTC and CA heavily relied on AAA's testimony and the Medico-Legal Report. A perusal of the records of the case negates the conclusion of both the RTC and CA that the carnal knowledge between Estong and AAA was accompanied by force or intimidation on the part of Estong. In AAA's testimony, she claimed that she freely and voluntarily went to Estong's house to watch television. AAA also alleged that it was not the first time she had carnal knowledge with Estong. As a matter of fact, in AAA's testimony, despite the alleged previous incidents of carnal knowledge with Estong, AAA still voluntarily went to Estong's house when she was invited to watch television, to wit:

Q: So were you invited by Estong, how were you able to enter the house of Estong?


A: **Tinawag niya po ako, dahil nandoon po ako sa bahay ng lola ko para manood ng T.V.**

Q: So while watching T.V., what happened if any?

A: **Pumasok po si BBB pero lumabas din po kaagad, tapos isinalang po ni Kuya Estong iyong bala ng DVD na bold, nanood na po kami.**

x x x x

¹⁷ *People v. Delen*, 733 Phil. 321, 333 (2014).



Q: **So while you were watching the movie, what happened next if any?**

A: Isinara po ni Kuya Estong iyong pintuan at bigla pong hinubad ni Kuya Estong ang short at panty ko.

Q: All of your dress?

A: Opo.

Q: Then what happened?

A: Tapos po pinasok niya po yung pribadong ari niya.¹⁸ (Emphasis supplied)

In her testimony, AAA admitted that she willingly went to Estong's house upon being invited by the latter. Moreover, during cross-examination, AAA admitted that the said incident on 15 May 2009 was not the first time Estong had carnal knowledge of her. According to AAA, there were five (5) prior incidents but, despite this, she still heeded the invitation of Estong to go watch television in Estong's house. In this particular case, the element of force or intimidation is absent to justify a conviction for rape. Reasonable doubt exists that Estong exerted force or intimidation on AAA when Estong had carnal knowledge of AAA.

The action of Estong in placing an x-rated film which both Estong and AAA watched, if any, amounts to inducement or enticement¹⁹ under sexual abuse cases under RA 7610 but not to force or intimidation as an element of rape under the Revised Penal Code. In this case, what is clear is that AAA was aware of previous sexual advances by Estong and yet AAA still heeded the invitation of Estong. Moreover, AAA admitted that she repeatedly went to Estong's house whenever he would call her. Such is not the usual conduct of a rape victim. In fact, if there were indeed previous sexual encounters against her will, under ordinary circumstances, AAA would have avoided Estong and would have stayed away from Estong's house. The existence of willingness on the part of the victim, AAA, shows reasonable doubt that the carnal knowledge between AAA and Estong was not un-consensual. Accordingly, Estong must be acquitted of the charge of rape.

Estong is guilty of the crime of sexual abuse under Section 5(b) of RA 7610 against BBB. Bautista participated in the sexual abuse as an accomplice.

Section 5, Article III of RA 7610 provides:

¹⁸ *Rollo*, pp. 15-16.

¹⁹ Paragraph (a) of Section 5 of RA 7610 states: (a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:
x x x x (Emphasis supplied)

Section 5. Child Prostitution and Other Sexual Abuse. – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

(1) Acting as a procurer of a child prostitute;

(2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;

(3) Taking advantage of influence or relationship to procure a child as prostitute;

(4) Threatening or using violence towards a child to engage him as a prostitute; or

(5) Giving monetary consideration, goods or other pecuniary benefit to a child with intent to engage such child in prostitution.

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; and

(c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment. (Emphasis supplied)

The elements of sexual abuse are the following, to wit: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child, whether male or female, is below eighteen (18) years old.²⁰

²⁰ *Garingarao v. People*, 669 Phil. 512, 523 (2011).

Under Section 32, Article XIII of the Implementing Rules and Regulations of RA 7610, lascivious conduct is defined as follows:

[T]he intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person. (Boldfacing and italicization supplied)

We agree with the CA that the prosecution established beyond reasonable doubt that Estong committed sexual abuse on BBB. According to BBB's testimony, Estong undressed her, mashed and sucked her breasts and caressed her vagina. Bautista cooperated in the commission of the sexual abuse against BBB by inviting BBB, by assisting in the commission of the crime, and by assisting in Estong's escape. BBB's testimony provides:

Q: When Michelle called you, what happened next Ms. Witness?

A: She called me to buy ice and RC, sir.

Q: Now, prior to this incident, how long have you known Michelle?

A: I have known her since they transferred in our neighborhood, sir. She is my neighbor also, sir.

Q: If you know, is Michelle living with someone?

A: Yes, sir.

Q: And who was that person if you would know, Ms. Witness?

A: I forgot already sir.

Q: Now, after she asked you to buy those things, what did you do next?

A: She closed the door and told me that we will play baraha but she immediately undressed me sir.

Q: Who undressed you, (Ms.) Witness?

A: Estong, sir.

Q: Is this Estong present inside the court room now?

A: Yes, sir (witness stood up and pointed to a man wearing Pasig City Jail Detainee uniform who stood up and stated that his name is Anthony Chavez)

Q: Now after he took off your clothes, what else did he do, if any?

A: Hinipuan niya po ako.

Q: Ms. Witness, in order to put in [the] records, where did he touch you?

A: (witness pointed to her private parts her vagina)

Q: And when he was touching you at your vagina, were you already undressed?

A: Yes, sir.

Q: Now, did he also take off your upper clothing?

A: Yes, sir.

Q: Aside from your vagina, what else did he touch?

A: My breast, sir.

Q: Both breast[s]?

A: Yes, sir.

Q: Was he using both hands?

A: Yes, sir.

Q: Now, aside from touching you inappropriately, what else did he do, Ms. Witness?

A: He sucked my breast, sir.

Q: Was it both breast[s]?

A: Yes, sir.

Q: Now, after doing [t]hat to you, what else did he do?

A: He mashed my breast, sir?

Q: Okay, both breast[s]?

A: Yes, sir.

Q: He used both his hands?

A: Yes, sir.

Q: Now, after doing that, what else did he do?


A: He opened the door because somebody saw us. The daughter of Ate Eva saw us, sir.²¹

Galvez, the neighbor, confirmed BBB's testimony. Galvez testified that she saw Estong sitting on a chair while BBB was holding his penis and his other hand was mashing BBB's breast. Galvez confirmed that Bautista was likewise inside the room and was washing and slicing meat. Galvez testified that she did not see any indication that Bautista tried to stop or prevent Estong from sexually abusing BBB. According to Galvez, she heard Bautista utter the words: "patay nahuli tayo ni Ate Eva." When the barangay official arrived, Bautista also helped Estong escape which led to the pursuit by BSF Aranda. Eventually, BSF Aranda caught Estong in Maybunga.

This Court agrees with the finding of both the RTC and CA that the testimonies of BBB and Galvez, including their positive identification of the two accused, outweigh the defenses of alibi and denial of Estong and Bautista. In *Garingarao v. People*,²² this Court held that in cases of acts of

²¹ *Rollo*, pp. 19-21.

²² *Supra* note 20.



lasciviousness and sexual abuse, the lone testimony of the offended party, if credible, is sufficient to establish the guilt of the accused.²³ Furthermore, both denial and alibi are inherently weak defenses and constitute self-serving negative evidence which cannot be accorded greater evidentiary weight than the positive declaration of a credible witness.²⁴ In the present case, Estong and Bautista's defenses of alibi and denial must fail over the positive and straightforward testimonies of BBB and Galvez on the said incident. Both, Estong and Bautista are guilty of sexual abuse under Section 5(b) of RA 7610.

WHEREFORE, the Court **PARTIALLY GRANTS** the appeal. The Decision of the Court of Appeals dated 11 August 2017 finding appellant Anthony Chavez y Villareal @ Estong guilty of the crime of rape punishable under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353, is **REVERSED** and **SET ASIDE**. Appellant Anthony Chavez y Villareal @ Estong is **ACQUITTED** in so far as his criminal liability for the crime of rape is concerned.

The Court **AFFIRMS** the Decision dated 11 August 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08563, finding appellant Anthony Chavez y Villareal @ Estong and Michelle Bautista y Dela Cruz guilty beyond reasonable doubt of sexual abuse under Section 5(b), Article III of Republic Act No. 7610. We sustain the award of Fifty Thousand Pesos (₱50,000.00) as moral damages in Criminal Case No. 140190 and the imposition thereon of an interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.

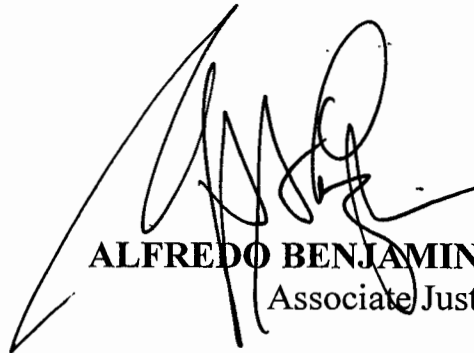


ANTONIO T. CARPIO
Acting Chief Justice

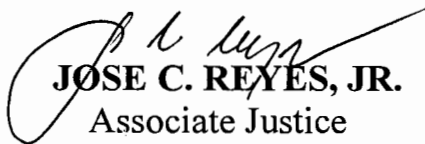
²³ *Supra* note 20, at 522.

²⁴ *Id.*

WE CONCUR:



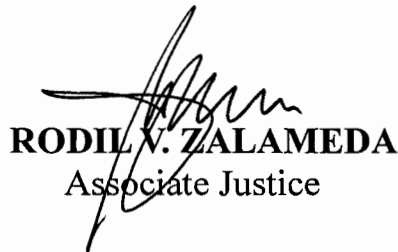
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice




RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY



ANTONIO T. CARPIO
Acting Chief Justice



MARIA LOURDES F. PERFECTO
Division Clerk of Court
Second Division