Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

FELINA ROSALDES,
Petitioner,

- *versus* -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 173988

Present:

SERENO, *C.J.*,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

OCT 08 2014

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DECISION

BERSAMIN, *J.*:

The petitioner, a public schoolteacher, was charged with and found guilty of *child abuse*, a violation of Republic Act No. 7610.[1] The victim was her own Grade 1 pupil whom she physically maltreated for having accidentally bumped her knee while she was drowsing off on a bamboo sofa as he entered the classroom. Her maltreatment left him with physical injuries, as duly certified by a physician.

Whether or not the petitioner thereby committed *child abuse* is the question that this appeal must determine, in light of the Court's pronouncement in *Bongalon v. People of the Philippines*[2] that:

> Not every instance of the laying of hands on a child constitutes the crime of *child abuse* under Section 10 (*a*) of Republic Act No. 7610. Only when the laying of hands is shown beyond reasonable doubt to be intended by the accused to debase, degrade or demean the intrinsic worth and dignity of the child as a human being should it be punished as *child abuse*. Otherwise, it is punished under the *Revised Penal Code*.

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[1] *An Act Providing for Strong Deterrence and Special Protection of Children Against Child Abuse, Exploitation and Discrimination, and for Other Purposes* (Approved on June 17, 1992).

[2] G.R. No. 169533, March 20, 2013, 694 SCRA 12, 14-15.

Antecedents

The State, through the Office of the Solicitor General, summed up the factual antecedents in its comment,[3] as follows:

> On February 13, 1996, seven year old Michael Ryan Gonzales, then a Grade 1 pupil at Pughanan Elementary School located in the Municipality of Lambunao, Iloilo, was hurriedly entering his classroom when he accidentally bumped the knee of his teacher, petitioner Felina Rosaldes, who was then asleep on a bamboo sofa (TSN, March 14, 1997, pp. 5-6). Roused from sleep, petitioner asked Michael Ryan to apologize to her. When Michael did not obey but instead proceeded to his seat (TSN, March 14, 1997, p. 6), petitioner went to Michael and pinched him on his thigh. Then, she held him up by his armpits and pushed him to the floor. As he fell, Michael Ryan's body hit a desk. As a result, he lost consciousness. Petitioner proceeded to pick Michael Ryan up by his ears and repeatedly slammed him down on the floor. Michael Ryan cried (TSN, March 14, 1997, p. 6; TSN, November 13, 1997, p. 7).
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> After the incident, petitioner proceeded to teach her class. During lunch break, Michael Ryan, accompanied by two of his classmates, Louella Loredo and Jonalyn Gonzales, went home crying and told his mother about the incident (TSN, March 14, 1997, p. 7). His mother and his Aunt Evangeline Gonzales reported the incident to their Barangay Captain, Gonzalo Larroza (TSN, February 1, 1999, p. 4) who advised them to have Michael Ryan examined by a doctor. Michael Ryan's aunt and Barangay Councilman Ernesto Ligante brought him to the Dr. Ricardo Y. Ladrido Hospital where he was examined by Dr. Teresita Castigador. They, likewise, reported the incident to the Police Station (TSN, July 27, 1997, p. 6; TSN, February 1, 1999, p. 4).
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> The medical certificate issued by Dr. Teresita Castigador reads, in part:
>
> > 1. Petechiae and tenderness of both external ears 1x2 cm. and 1x1 cm.;
> >
> > 2. Lumbar pains and tenderness at area of L3-L4;
> >
> > 3. Contusions at left inner thigh 1x1 and 1x1 cm.;
> >
> > 4. Tenderness and painful on walking especially at the area of femoral head.

The petitioner was criminally charged with *child abuse* in the Regional Trial Court in Iloilo City (RTC), and the case was assigned to Branch 27 of that court. The information alleged as follows:

> The Provincial Prosecutor of Iloilo, upon approval and Directive of the Deputy OMBUDSMAN for the Visayas accuses FELINA

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3 *Rollo*, pp. 73-74.

> ROSALDES of the crime of VIOLATION OF CHILD ABUSE LAW (Section 10 (a) of R.A. 7610), committed as follows:
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> That on or about the 13th day of February 1996, in the Municipality of Lambunao, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a public school teacher in Grade 1 of Pughanan Elementary School, with a Salary Grade below 26, under the DECS, did then and there willfully, unlawfully and feloniously maltreat her pupil Michael Ryan Gonzales, a seven year old child, by pinching him on different parts of his body, and thereafter slumping him to the ground, thereby causing Michael Ryan Gonzales to lose his consciousness and has suffered injuries on different parts of his body.
>
> CONTRARY TO LAW.[4]

On June 26, 2003, the RTC rendered judgment convicting the petitioner of *child abuse*,[5] disposing as follows:

> WHEREFORE, finding the accused guilty beyond reasonable doubt of Violation of Section 10 (a), Article VI of R.A. 7610, the Court sentences her to an indeterminate prison term ranging from four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum, and to pay the costs.
>
> No pronouncement as to civil liability, the same not having been proved.
>
> SO ORDERED.[6]

On appeal, the CA affirmed the conviction of the petitioner through its assailed decision promulgated on May 11, 2005,[7] with a modification of the penalty, *viz*:

> **WHEREFORE,** premises considered, judgment is hereby rendered by us **DISMISSING** the appeal filed in this case and **AFFIRMING** the decision rendered on June 26, 2003 by the court *a quo* in Criminal Case No. 46893 with the **MODIFICATION** that the accused-appellant is sentenced to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as the minimum of it, to ten (10) years and one (1) day of *prision mayor*, as the maximum thereof.
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> IT IS SO ORDERED.[8]

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4 Records, p. 1.
5 CA *rollo*, pp. 23-33.
6 Id. at 33.
7 *Rollo*, pp. 41-58; penned by Associate Justice Isaias P. Dicdican, with Associate Justice Vicente L. Yap (retired) and Associate Justice Enrico A. Lanzanas (retired) concurring.
8 Id. at 57.

In her petition for review on *certiorari*,[9] the petitioner submits that:

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> The Court of Appeals erred in convicting the petitioner by holding that the acts of the petitioner constitute child abuse penalized under Section 10 (a) of Republic Act No. 7610[,] and not under the Revised Penal Code.
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> II
>
> The Court of Appeals erred in convicting the petitioner by holding that petitioner's constitutional right to due process and her right to be informed of the nature and cause of the accusation against her was not violated when the essential elements of the crime charged were not properly recited in the information. [10]

Countering, the State, through the OSG, insists that the issues the petitioner is raising are mainly factual and, therefore, not reviewable under the mode of appeal chosen; that the affirmance of her conviction by the CA was in accord with the pertinent law and jurisprudence, and supported by the overwhelming evidence of the trial; and that the information charging her with child abuse was sufficient in form and substance.[11]

Ruling of the Court

The appeal lacks merit.

First of all, the State correctly contends that the petitioner could raise only questions of law in her present recourse. Under Rule 45 of the *Rules of Court*, the appeal is limited to questions of law. The immediate implication of the limitation is to have the findings of fact by the CA, which affirmed the findings of fact by the trial court, conclude the Court by virtue of its not being a trier of fact. As such, the Court cannot analyze or weigh the evidence all over again.

It is true that the limitation of the review to errors of law admits of exceptions. Under Section 4, Rule 3 of the *Internal Rules of the Supreme Court*, the following situations are the exceptions in which the Court may review findings of fact by the lower courts, to wit: (*a*) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (*b*) the inference made is manifestly mistaken; (*c*) there is grave abuse of discretion; (*d*) the judgment is based on a misapprehension of facts; (*e*) the findings of fact are conflicting; (*f*) the collegial appellate courts went beyond the issues of the case, and their findings are contrary to the admissions of both appellant and appellee; (*g*) the findings of fact of the collegial appellate

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9 Id. at 4-17.
10 Id. at 7-8.
11 Id. at 75.

courts are contrary to those of the trial court; (*h*) said findings of fact are conclusions without citation of specific evidence on which they are based; (*i*) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; (*j*) the findings of fact of the collegial appellate courts are premised on the supposed evidence, but are contradicted by the evidence on record; and (*k*) all other similar and exceptional cases warranting a review of the lower courts' findings of fact. A further exception is recognized when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[12] Yet, none of the exceptions applies herein.

Secondly, the petitioner contends that she did not deliberately inflict the physical injuries suffered by Michael Ryan to maltreat or malign him in a manner that would debase, demean or degrade his dignity. She characterizes her maltreatment as an act of discipline that she as a schoolteacher could reasonably do towards the development of the child. She insists that her act further came under the doctrine of *in loco parentis*.

The contention of the petitioner is utterly bereft of merit.

Although the petitioner, as a schoolteacher, could duly discipline Michael Ryan as her pupil, her infliction of the physical injuries on him was unnecessary, violent and excessive. The boy even fainted from the violence suffered at her hands.[13] She could not justifiably claim that she acted only for the sake of disciplining him. Her physical maltreatment of him was precisely prohibited by no less than the Family Code, which has expressly banned the infliction of *corporal punishment* by a school administrator, teacher or individual engaged in child care exercising special parental authority (*i.e.*, *in loco parentis*), *viz*:

> Article 233. The person exercising substitute parental authority shall have the same authority over the person of the child as the parents.
>
> In no case shall the school administrator, teacher or individual engaged in child care exercising special parental authority inflict corporal punishment upon the child. (n)

Proof of the severe results of the petitioner's physical maltreatment of Michael Ryan was provided by Dr. Teresita Castigador, the Medico-Legal Officer of the Dr. Ricardo Y. Ladrido Memorial Hospital in Iloilo who examined the victim at about 1:00 o'clock in the afternoon of February 13, 1996, barely three hours from the time the boy had sustained his injuries. Her Medical Report stated as follows:

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12 *Madrigal v. Court of Appeals*, G.R. No. 142944, April 15, 2005, 456 SCRA 247, 255.

13 TSN, March 14, 1997, p. 6; November 13, 1997, p. 7.

1. Petechiae and tenderness of both external ears 1x2 cm. and 1x1 cm.;

2. Lumbar pains and tenderness at area of L3-L4;

3. Contusions at left inner thigh 1x1 and 1x1 cm.;

4. Tenderness and painful on walking especially at the area of femoral head.

Reflecting her impressions of the physical injuries based on the testimonial explanations of Dr. Castigador, the trial judge observed in the decision of June 26, 2003:

> A petechiae (wound no. 1), according to Dr. Castigador is a discoloration of the skin caused by the extravasation of blood beneath it. **She opined that the petechiae and tenderness of the ears of the victim could have been caused by pinching. As to the lumbar pain and tenderness at the third and fourth level of the vertebrae (wound no. 2), the doctor testified that during her examination of the victim the latter felt pain when she put pressure on the said area. She stated that this could be caused by pressure or contact with a hard object. Wound No. 3 is located on the victim's left inner thigh. According to her this could not have been caused by ordinary pinching with pressure. Wound No. 4 is located on the upper part of the left thigh.** Dr. Castigador testified that she noticed that the boy was limping as he walked.[14]

Section 3 of Republic Act No. 7610 defines *child abuse* thusly:

> x x x x
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> (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;
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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**;
>
> (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.
>
> x x x x

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14 TSN, January 30, 1997, pp. 8-10.

In the crime charged against the petitioner, therefore, the maltreatment may consist of an act *by deeds* or *by words* that *debases*, *degrades* or *demeans* the intrinsic worth and dignity of a child as a human being. The act need not be habitual. The CA concluded that the petitioner "went overboard in disciplining Michael Ryan, a helpless and weak 7-year old boy, when she pinched hard Michael Ryan on the left thigh and when she held him in the armpits and threw him on the floor[; and as] the boy fell down, his body hit the desk causing him to lose consciousness [but instead] of feeling a sense of remorse, the accused-appellant further held the boy up by his ears and pushed him down on the floor."[15] On her part, the trial judge said that the physical pain experienced by the victim had been aggravated by an emotional trauma that caused him to stop going to school altogether out of fear of the petitioner, compelling his parents to transfer him to another school where he had to adjust again.[16] Such established circumstances proved beyond reasonable doubt that the petitioner was guilty of *child abus*e by deeds that degraded and demeaned the intrinsic worth and dignity of Michael Ryan as a human being.

It was also shown that Michael Ryan's physical maltreatment by the petitioner was neither her first or only maltreatment of a child. Prosecution witness Louella Loredo revealed on cross examination that she had also experienced the petitioner's cruelty.[17] The petitioner was also convicted by the RTC in Iloilo City (Branch 39) in Criminal Case No. 348921 for maltreatment of another child named Dariel Legayada.[18] Such previous incidents manifested that the petitioner had "a propensity for violence," as the trial judge stated in her decision of June 26, 2003.[19]

Thirdly, the petitioner submits that the information charging her with *child abuse* was insufficient in form and substance, in that the essential elements of the crime charged were not properly alleged therein; and that her constitutional and statutory right to due process of law was consequently violated.

The petitioner's submission deserves scant consideration.

Under Section 6, Rule 110 of the *Rules of Court*, the information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the proximate date of the commission of the offense; and the place where the offense was committed.

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15 *Rollo*, p. 46.
16 Id. at 26.
17 TSN, December 4, 1998, pp. 4-5.
18 *Rollo*, p. 27.
19 Records, pp. 341-351.

The information explicitly averred the offense of *child abuse* charged against the petitioner in the context of the statutory definition of *child abuse* found in Section 3 (b) of Republic Act No. 7610, *supra*, and thus complied with the requirements of Section 6, Rule 110 of the *Rules of Court*.

Moreover, the Court should no longer entertain the petitioner's challenge against the sufficiency of the information in form and substance. Her last chance to pose the challenge was prior to the time she pleaded to the information through a motion to quash on the ground that the information did not conform substantially to the prescribed form, or did not charge an offense. She did not do so, resulting in her waiver of the challenge.

Fourthly, the RTC did not grant civil damages as civil liability *ex delicto* because no evidence had been adduced thereon.[20] The CA saw nothing wrong with the omission by the trial court. The explanation tendered by the trial judge for the omission was misplaced, however, because even without proof of the actual expenses, or testimony on the victim's feelings, the lower courts still had the authority to define and allow civil liability arising from the offense and the means to fix their extent. The *child abuse* surely inflicted on Michael Ryan physical and emotional trauma as well as moral injury. It cannot also be denied that his parents necessarily spent for his treatment. We hold that both lower courts committed a plain error that demands correction by the Court. Indeed, as the Court pointed out in *Bacolod v. People*,[21] it was "imperative that the courts prescribe the proper penalties when convicting the accused, and determine the civil liability to be imposed on the accused, unless there has been a reservation of the action to recover civil liability or a waiver of its recovery," explaining the reason for doing so in the following manner:

> It is not amiss to stress that both the RTC and the CA disregarded their express mandate under Section 2, Rule 120 of the *Rules of Court* to have the judgment, if it was of conviction, state: "(1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) **the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived**." Their disregard compels us to act as we now do lest the Court be unreasonably seen as tolerant of their omission. That the Spouses Cogtas did not themselves seek the correction of the omission by an appeal is no hindrance to this action because the Court, as the final reviewing tribunal, has not only the authority but also the duty to correct at any time a matter of law and justice.

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20 Id. at 351.

21 G.R. No. 206236, July 15, 2013, 701 SCRA 229.

> We also pointedly remind all trial and appellate courts to avoid omitting reliefs that the parties are properly entitled to by law or in equity under the established facts. Their judgments will not be worthy of the name unless they thereby fully determine the rights and obligations of the litigants. It cannot be otherwise, for only by a full determination of such rights and obligations would they be true to the judicial office of administering justice and equity for all. Courts should then be alert and cautious in their rendition of judgments of conviction in criminal cases. They should prescribe the legal penalties, which is what the Constitution and the law require and expect them to do. Their prescription of the wrong penalties will be invalid and ineffectual for being done without jurisdiction or in manifest grave abuse of discretion amounting to lack of jurisdiction. They should also determine and set the civil liability *ex delicto* of the accused, in order to do justice to the complaining victims who are always entitled to them. The *Rules of Court* mandates them to do so unless the enforcement of the civil liability by separate actions has been reserved or waived.[22]

Moral damages should be awarded to assuage the moral and emotional sufferings of the victim, and in that respect the Court believes and holds that ₱20,000.00 is reasonable. The victim was likewise entitled to exemplary damages, considering that Article 2230 of the *Civil Code* authorizes such damages if at least one aggravating circumstance attended the commission of the crime. The *child abuse* committed by the petitioner was aggravated her being a public schoolteacher, a factor in raising the penalty to its maximum period pursuant to Section 31(e) of Republic Act No. 7610. The amount of ₱20,000.00 as exemplary damages is imposed on in order to set an example for the public good and as a deterrent to other public schoolteachers who violate the ban imposed by Article 233 of the Family Code, *supra*, against the infliction of corporal punishment on children under their substitute parental authority. The lack of proof of the actual expenses for the victim's treatment should not hinder the granting of a measure of compensation in the form of temperate damages, which, according to Article 2224 of the *Civil Code*, may be recovered when some pecuniary loss has been suffered but its amount cannot be proved with certainty. There being no question about the injuries sustained requiring medical treatment, temperate damages of at least ₱20,000.00 are warranted, for it would be inequitable not to recognize the need for the treatment. Lastly, interest of 6% *per annum* shall be charged on all the items of civil liability, to be reckoned from the finality of this decision until full payment.

The penalty for the *child abuse* committed by the petitioner is that prescribed in Section 10(a) of Republic Act No. 7610, *viz*:

> 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

[22] Id. at 239-240 (the bold underscoring is part of the original text).

> 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.
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> x x x x

The CA revised the penalty fixed by the RTC by imposing the indeterminate penalty of four years, two months and one day of *prision correccional*, as minimum, to 10 years and one day of *prision mayor*, as the maximum, on the ground that the offense was aggravated by the petitioner being a public schoolteacher.[23] It cited Section 31(e) of Republic Act No. 7610, which commands that the penalty provided in the Act "shall be imposed in its maximum period if the offender is a public officer or employee." Her being a public schoolteacher was alleged in the information and established by evidence as well as admitted by her. The revised penalty was erroneous, however, because Section 10 (a) of Republic Act No. 7610 punishes the crime committed by the petitioner with *prision mayor* in its minimum period, whose three periods are six years and one day to six years and eight months, for the minimum period; six years, eight months and one day to seven years and four months, for the medium period; and seven years, four months and one day to eight years, for the maximum period. The maximum of the indeterminate sentence should come from the maximum period, therefore, and the Court fixes it at seven years, four months and one day of *prision mayor*. The minimum of the indeterminate sentence should come from *prision correccional* in the maximum period, the penalty next lower than *prision mayor* in its minimum period, whose range is from four years, two months and one day to six years. Accordingly, the minimum of the indeterminate sentence is four years, nine months and 11 days, and the maximum is seven years, four months and one day of *prision mayor*.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on May 11, 2005, subject to the **MODIFICATIONS** that: (*a*) the petitioner shall suffer the indeterminate penalty of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to seven (7) years, four (4) months and one (1) day of *prision mayor*, as the maximum; (*b*) the petitioner shall pay to Michael Ryan Gonzales ₱20,000.00 as moral damages, ₱20,000.00 as exemplary damages, and ₱20,000.00 as temperate damages, plus interest at the rate of 6% *per annum* on each item of the civil liability reckoned from the finality of this decision until full payment; and (*c*) the petitioner shall pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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[23] CA *rollo*, p. 296.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

MARIA LOURDES P. A. SERENO
Chief Justice