

THIRD DIVISION

[G.R. No. 235071, January 07, 2019]

**EVANGELINE PATULOT Y GALIA, PETITIONER, VS. PEOPLE OF
THE PHILIPPINES, RESPONDENT.**

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision^[1] dated July 13, 2017 and the Resolution^[2] dated September 25, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 37385 which affirmed with modification the Decision^[3] dated November 19, 2014 of the Regional Trial Court (RTC) of Pasig City, Branch 163, Taguig City Station, finding Evangeline Patulot y Galia guilty beyond reasonable doubt of two (2) charges of child abuse.

The antecedent facts are as follows.

In two (2) separate Informations, Patulot was charged with child abuse, defined and penalized under Republic Act (R.A.) No. 7610, otherwise known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act,^[4] the accusatory portions of which read:

(Criminal Case No. 149971)

That on or about the 14th day of November 2012 in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there wilfully, unlawfully, and feloniously commit acts of child abuse upon one AAA,^[5] a three (3) year old minor, by throwing on him a boiling oil, thereby inflicting upon said victim-minor physical injuries, which acts are inimical and prejudicial to the child's normal growth and development.

CONTRARY TO LAW.

(Criminal Case No. 149972)

That on or about the 14th day of November 2012, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there wilfully, unlawfully and feloniously commit acts of child abuse upon one BBB, a two (2) month old baby, by throwing on her a boiling oil, thereby inflicting upon said victim-minor physical injuries, which acts are inimical and prejudicial to the child's normal growth and development.

CONTRARY TO LAW.^[6]

During arraignment, Patulot, assisted by counsel, pleaded not guilty to the charges. Subsequently, trial on the merits ensued wherein the prosecution presented CCC, mother of minors AAA and BBB, three (3) years old and two (2) months old, respectively; DDD, father of the minors; and Dr. Francis Jerome Vitales as its witnesses and offered documentary evidence^[7] to establish the following facts:

At around 2:00 p.m. of November 14, 2012, CCC gathered clothes from the clothesline outside her house. As she was about to enter the house, she was surprised to see Patulot who was holding a casserole. Without warning, Patulot poured the contents of the casserole - hot cooking oil - on her. CCC tried to dodge, but to no avail. AAA and BBB, who were nearby, suddenly cried because they were likewise hit by the hot cooking oil. CCC hurriedly brought AAA and BBB to her three neighbors who volunteered to bring the children to the Polyclinic at South Signal, Taguig City, for treatment. She then went to the barangay hall also at South Signal, Taguig City, to report the incident. Accompanied by barangay personnel, she went to Patulot's house, but Patulot was not there. She instead returned to her children at the Polyclinic. While there, she learned from a neighbor that Patulot had been arrested. Consequently, having been assured that her children were all right and that medication had already been given, they returned to the barangay hall, where DDD met them. At the barangay hall, CCC noticed that her children were shivering. Thus, she asked her neighbors to bring them to Pateros-Taguig District Hospital while she stayed behind to give her statement. Afterwards, she proceeded to the hospital where she was likewise treated for injuries. While she and BBB were able to go home, AAA needed to be confined but was discharged the next morning. Before going home, however, CCC proceeded to the Taguig Police Station where she executed her *Sinumpaang Salaysay*.^[8]

Subsequently, Dr. Vitales of the Pateros-Taguig District Hospital, who examined and treated CCC and her children, testified that the injuries suffered by AAA and BBB would heal for an average period of thirty (30) days. Next, DDD testified that he incurred P7,440.00 in medical expenses for his wife and children.^[9]

Solely testifying in her defense, Patulot denied the allegations against her. She recounted that prior to the alleged incident, she was on her way to the market to sell her merchandise when CCC bumped her on the arm, uttering foul words against her. Due to the impact, Patulot's merchandise fell. Because of this, she cursed CCC back who, in turn, merely laughed and repeated the invectives as she moved away. Then, from 11:00 a.m. to 2:30 p.m. on November 14, 2012, she was repacking black pepper at her house when she heard CCC taunt her in a loud voice, "*Bakit hindi ka pa sumama sa asawa mo? Dapat sumama ka na para pareha kayong paglamayan.*" Because of this, Patulot proceeded to Barangay Central Signal, Taguig City, to file a complaint against CCC, but she was ignored. So she went instead to the Barangay South Signal, Taguig City. But upon reaching said location, she was apprehended by the Barangay Tanod and brought to the Barangay Hall of South Signal, Taguig City for questioning.^[10]

On November 19, 2014, the RTC found Patulot guilty of child abuse and disposed of the case as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- 1) In Criminal Case No. 149971, the Court finds accused Evangeline Patulot y Galia GUILTY beyond reasonable doubt of the offense charged and hereby sentences her to suffer the indeterminate penalty of six (6) years and one (1) day of *pris[i]on mayor*, as minimum, to seven (7) years and four (4) months of *pris[i]on mayor*, as maximum. Accused is further ordered to pay the offended party the amount of Three Thousand Seven Hundred Two Pesos (P3,702), as actual damages, and Ten Thousand Pesos (P10,000) by way of moral damages;
- 2) In Criminal Case No. 149972, the Court finds accused Evangeline Patulot y Galia GUILTY beyond reasonable doubt of the offense charged and hereby sentences her to suffer the indeterminate penalty of six (6) years and one (1) day of *pris[i]on mayor*, as minimum, to seven (7) years and four (4) months of *pris[i]on mayor*, as maximum. Accused is further ordered to pay the offended party the amount of Three Thousand Seven Hundred Two Pesos (P3,702), as actual damages, and Ten Thousand Pesos (P10,000) by way of moral damages; and
- 3) Finally, accused is ordered to pay a fine of Five Thousand Pesos (P5,000) in each case, conformably with section 31 (f) of R.A. 7610.

SO ORDERED.^[11] (Italics supplied.)

The RTC found that while Patulot may not have intended to cause harm on AAA and BBB, her negligence nonetheless caused injury on them, which left visible scars that are most likely to stay on their faces and bodies for the rest of their lives. Besides, the trial court added that R.A. No. 7610 is a special law such that intent is not necessary for its violator to be liable.^[12]

In a Decision dated July 13, 2017, the CA affirmed Patulot's conviction, but modified the penalty imposed by the RTC in the following wise:

WHEREFORE, the 19 November 2014 Decision of the Regional Trial Court of Pasig City, Branch 163 (Taguig City Station) is AFFIRMED with the MODIFICATION that:

- 1) in Criminal Case No. 149971, Evangeline Patulot y Galia is SENTENCED to suffer the indeterminate penalty of four (4) years, nine (9) months, and eleven (11) days of *prision correccional*, as minimum[,] to seven (7) years and four (4) months of *prision mayor*, as maximum; and
- 2) in Criminal Case No. 149972, Evangeline Patulot y Galia is SENTENCED to suffer the indeterminate penalty of four (4) years, nine (9) months, and eleven (11) days of *prision correccional*, as minimum[,] to seven (7) years and four (4) months of *prision mayor*, as maximum.

SO ORDERED.^[13] (*Italics supplied, underscoring in the original.*)

According to the appellate court, there was no reason to deviate from the trial court's findings of guilt for it had the unique opportunity to observe the demeanor of the witnesses and their deportment on the witness stand. It, however, ruled that the RTC was amiss in finding it unnecessary to determine intent merely because the act for which Patulot stood charged is punishable by a special law. The CA clarified that the index of whether a crime is *malum prohibitum* is not its form, that is, whether or not it is found in the Revised Penal Code (RPC) or in a special penal statute, but the legislative intent. Nevertheless, this reasoning still cannot help Patulot's case because even if she did not intend on inflicting harm on the children, there was still intent to harm CCC. Thus, criminal liability is incurred although the wrongful act done be different from that which Patulot intended. For the same reason, the mitigating circumstance of "no intention to commit so grave a wrong as that committed" cannot be appreciated in Patulot's favor. Thus, Patulot must still be held guilty of the offense charged.^[14]

Aggrieved by the CA's denial of her Motion for Reconsideration, Patulot filed the instant petition on January 4, 2018, invoking the following arguments:

I.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE PETITIONER'S CONVICTION OF VIOLATING SEC. 10(A) R.A. 7610 DESPITE THE FACT THAT SHE HAD NO INTENT TO DEGRADE AND DEMEAN THE INTRINSIC WORTH AND DIGNITY OF THE PRIVATE COMPLAINANT'S CHILDREN.

II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN FAILING TO APPLY ARTICLE 49 OF THE REVISED PENAL CODE WITH REGARD TO THE IMPOSITION OF THE PENALTY.^[15]

According to Patulot, she can only be convicted of physical injuries and not child abuse. Citing our pronouncement in *Bongalon v. People*,^[16] she submits that not every instance of laying hands on a child constitutes the crime of child abuse under Section 10(a) of R.A. No. 7610. Only when the laying of hands is shown to be intended 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 RPC. Thus, in the absence of such intention on the part of Patulot, her true intention being to pour hot oil only on CCC with AAA and BBB being merely accidentally hit, she cannot be convicted of child abuse.

Patulot adds that even considering her to have committed child abuse, the CA erred in determining the imposable penalty for failing to apply Article 49^[17] of the RPC. According to Patulot, there was error *in personae* as the oil that was intended for CCC accidentally hit the children. She intended to commit physical injuries, but ended up committing child abuse. Applying Article 49, since the penalty of the intended crime (physical injuries) is less than the crime committed (child abuse), the imposable penalty is that which refers to physical injuries, in its maximum

period. As to the extent of the physical injuries intended, based on the finding of Dr. Vitales that the injuries suffered by AAA and BBB would heal for an average period of thirty (30) days, the offense Patulot intended to commit is only Less Serious Physical Injuries under the first paragraph of Article 265^[18] of the RPC. Thus, the proper penalty should only be *arresto mayor* in its maximum or four (4) months and one (1) day to six (6) months for each count.^[19]

We deny the petition.

Under Section 3(b) of R.A. No. 7610, "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.

In conjunction with this, Section 10(a) of the same Act provides:

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. (Italics supplied.)

Corollarily, Section 2 of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases defines the term "child abuse" as the infliction of *physical* or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child. In turn, the same Section defines "physical injury" as those that include but are not limited to lacerations, fractured bones, *burns*, internal injuries, severe injury or serious bodily harm suffered by a child.

In view of these provisions, the Court, in *Araneta v. People*,^[20] discussed the distinct acts punishable under R.A. No. 7610, *to wit*:

As gleaned from the foregoing, the provision punishes not only those enumerated under Article 59 of Presidential Decree No. 603, but also four distinct acts, i.e., (a) child abuse, (b) child cruelty, (c) child exploitation and (d) being responsible for conditions prejudicial to the child's development. The Rules and Regulations of the questioned statute distinctly and separately defined child abuse, cruelty and exploitation just to show that these three acts are different from one another and from the act prejudicial to the child's development. Contrary to petitioner's assertion, an accused can be prosecuted and be convicted under Section 10(a), Article VI of Republic Act No. 7610 if he commits any of the four acts therein. The prosecution need not prove that the acts of child abuse, child cruelty and child exploitation have resulted in the prejudice of the