

EN BANC

[G.R. No. 214497, April 18, 2017]

EDUARDO QUIMVEL Y BRAGA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

VELASCO JR., J.:

The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the May 29, 2014 Decision^[1] and September 15, 2014 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CR No. 35509.^[3] The challenged rulings sustained the petitioner's conviction^[4] of the crime of Acts of Lasciviousness in relation to Sec. 5(b), Article III of Republic Act No. (RA) 7610.^[5]

The Information reads:^[6]

AMENDED INFORMATION

The Undersigned Assistant City Prosecutor of Ligao City hereby accuses EDUARDO QUIMVEL y BRAGA also known as EDWARD/EDUARDO QUIMUEL y BRAGA of the crime of Acts of Lasciviousness in relation to Section 5(b) of R.A. No. 7610, committed as follows:

That on or about 8 o'clock in the evening of July 18, 2007 at Palapas, Ligao City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, through force and intimidation, did then and there, willfully, unlawfully and feloniously, insert his hand inside the panty of [AAA],^[7] a minor of 7 years old and mash her vagina, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.

The Facts

The facts of the case, as can be gleaned from the Decision of the CA, are as follows:^[8]

AAA, who was seven years old at the time of the incident, is the oldest among the children of XXX and YYY. XXX worked as a household helper in Batangas while YYY was a *Barangay Tanod* who derived income from selling vegetables. AAA and her siblings, BBB and CCC, were then staying with YYY in Palapas, Ligao City.

On the other hand, Quimvel, at that time, was the caretaker of the ducks of AAA's grandfather. He lived with AAA's grandparents whose house was just a few meters away from YYY's house.

At around 8 o'clock in the evening of [July 18,] 2007, YYY went out of the house to buy kerosene since there was no electricity. While YYY was away, Quimvel arrived bringing a vegetable viand from AAA's grandfather. AAA requested Quimvel to stay with them as she and her siblings were afraid. He agreed and accompanied them. AAA and her siblings then went to sleep. However, she was awakened when she felt Quimvel's right leg on top of her body. She likewise sensed Quimvel inserting his right hand inside her panty. In a trice, she felt Quimvel caressing her private part. She removed his hand.

Quimvel was about to leave when YYY arrived. She asked him what he was doing in his house. Quimvel replied that he was just accompanying the children. After he left, YYY and his children went back to sleep.

On [July 29,] 2007, XXX arrived from Batangas. Later in the evening while XXX was lying down with her children, she asked them what they were doing while she was away. BBB told her that Quimvel touched her Ate. When XXX asked AAA what Quimvel did to her, she recounted that Quimvel laid down beside her and touched her vagina.

Upon hearing this, XXX and YYY went to the Office of the *Barangay Tanod* and thereafter to the police station to report the incident. Afterwards, they brought AAA to a doctor for medical examination.

As expected, Quimvel denied the imputation hurled against him. He maintained that he brought the ducks of AAA's grandmother to the river at 7 o'clock in the morning, fetched it and brought it back at AAA's grandmother's place at 4 o'clock in the afternoon of [July 18,] 2007. After that, he rested. He said that he never went to AAA's house that evening. When YYY confronted and accused him of touching AAA, he was totally surprised. Even if he denied committing the crime, he was still detained at the *Barangay* Hall. He was then brought to the police station for interrogation. Eventually, he was allowed to go home. He did not return to the house of AAA's grandmother to avoid any untoward incidents.

Ruling of the Trial Court

Lending credence to AAA's straightforward and categorical testimony, the Regional Trial Court (RTC), Branch 11 in Ligao City, Albay, on January 23, 2013, rendered its Judgment^[9] finding petitioner guilty beyond reasonable doubt of the crime charged. The dispositive portion of the judgment reads:^[10]

WHEREFORE, in the light of the foregoing, judgment is hereby rendered:

1. Finding the accused, EDUARDO QUIMVEL Y BRAGA a.k.a. EDWARD/EDUARDO QUIMUEL Y BRAGA, GUILTY beyond reasonable

doubt of the crime of Acts of Lasciviousness in relation to Section 5 (b), Article III of R.A. 7610 and thereby sentenced him to suffer the penalty of imprisonment from FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of Reclusion Temporal in its medium period as minimum to FIFTEEN (15) YEARS, SIX (6) MONTHS and NINETEEN (19) DAYS of Reclusion Temporal in its medium period as maximum; and

2. ORDERING the accused, EDUARDO QUIMVEL Y BRAGA a.k.a. EDWARD/EDUARDO QUIMUEL Y BRAGA, to pay the victim the amount of P30,000.00 as moral damages and to pay a fine in the amount of P30,000.00.

In the service of his sentence, accused EDUARDO QUIMVEL Y BRAGA a.k.a. EDWARD/EDUARDO QUIMVEL Y BRAGA shall be credited with the period of his preventive detention pursuant to Article 29 of the Revised Penal Code.

No costs.

SO ORDERED.

Ruling of the Appellate Court

Thereafter, petitioner lodged an appeal with the CA but to no avail. For on May 29, 2014, the CA rendered its assailed Decision affirming, with modification, the Judgment of the trial court. The dispositive portion of the Decision provides:^[11]

WHEREFORE, the Decision dated 23 January 2013 of the Regional Trial Court, Fifth Judicial Region, Ligao City Branch II, in Criminal Case No. 5530, is hereby MODIFIED in that accused-appellant EDUARDO QUIMVEL y BRAGA also known as EDUARDO/EDWARD QUIMUEL y BRAGA is ORDERED to pay the victim, AAA moral damages, exemplary damages and fine in the amount of P15,000.00 each as well as P20,000.00 as civil indemnity. All damages shall earn interest at the rate of six percent (6%) per annum from the date of finality of this judgment.

SO ORDERED.

The Issues

Aggrieved, Quimvel elevated his case to this Court and raised the following issues for resolution:

I.

The CA erred in affirming the decision of the trial court as the prosecution was not able to prove that he is guilty of the crime charged beyond reasonable doubt.

II.

Assuming without admitting that he is guilty hereof, he may be convicted

only of acts of lasciviousness under Art. 336 of the Revised Penal Code (RPC) and not in relation to Sec. 5(b) of RA 7610.

The Court's Ruling

We affirm the CA's Decision finding petitioner guilty beyond reasonable doubt of the crime of Acts of Lasciviousness as penalized under Sec. 5(b) of RA 7610.

The Information charged the crime of Acts of Lasciviousness under Sec. 5(b) of RA 7610

Petitioner contends that, granting without admitting that he is guilty of Acts of Lasciviousness, he should only be held liable for the crime as penalized under the RPC and not under RA 7610. According to him, to be held liable under the latter law, it is necessary that the victim is involved in or subjected to prostitution or other sexual abuse, and that the failure to allege such element constituted a violation of his constitutional right to be informed of the nature and the cause of accusation against him.^[12]

His argument fails to persuade.

i. The acts constituting the offense must be alleged in the Information

It is fundamental that, in criminal prosecutions, every element constituting the offense must be alleged in the Information before an accused can be convicted of the crime charged. This is to apprise the accused of the nature of the accusation against him, which is part and parcel of the rights accorded to an accused enshrined in Article III, Section 14(2) of the 1987 Constitution.^[13] Sections 6, Rule 110 of the Rules of Court, in turn, pertinently provides:

Section 6. Sufficiency of complaint or information. - A complaint or information is sufficient if it states the name of the accused, the designation of the offense by the statute, **the acts or omissions complained of as constituting the offense**; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed. (emphasis added)

Jurisprudence has already set the standard on how the requirement is to be satisfied. Case law dictates that the allegations in the Information must be in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged and enable the court to know the proper judgment. The Information must allege clearly and accurately the **elements** of the crime charged. The facts and circumstances necessary to be included therein are determined by reference to the definition and elements of the specific crimes.^[14]

The main purpose of requiring the elements of a crime to be set out in the Information is to enable the accused to suitably prepare his defense because he is presumed to have no independent knowledge of the facts that constitute the offense. The allegations of facts constituting the offense charged are substantial matters and the right of an accused to question his conviction based on facts not alleged in the information cannot be waived.^[15] As further explained in *Andaya v. People*:^[16]

No matter how conclusive and convincing the evidence of guilt may be, an accused cannot be convicted of any offense unless it is charged in the information on which he is tried or is necessarily included therein. To convict him of a ground not alleged while he is concentrating his defense against the ground alleged would plainly be unfair and underhanded. **The rule is that a variance between the allegation in the information and proof adduced during trial shall be fatal to the criminal case if it is material and prejudicial to the accused so much so that it affects his substantial rights.** (emphasis added)

Indeed, the Court has consistently put more premium on the facts embodied in the Information as constituting the offense rather than on the designation of the offense in the caption. In fact, an investigating prosecutor is not required to be absolutely accurate in designating the offense by its formal name in the law. What determines the real nature and cause of the accusation against an accused is the actual recital of facts stated in the Information or Complaint, not the caption or preamble thereof nor the specification of the provision of law alleged to have been violated, being conclusions of law.^[17] It then behooves this Court to place the text of the Information under scrutiny.

ii. The elements of the offense penalized under Sec. 5(b) of RA 7610 were sufficiently alleged in the Information

In the case at bar, petitioner contends that the Information is deficient for failure to allege all the elements necessary in committing Acts of Lasciviousness under Sec. 5(b) of RA 9160.

His theory is that the Information only charges him of the crime as punished under Art. 336 of the RPC, which pertinently reads:

Art. 336. *Acts of lasciviousness.* - Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned on the preceding article, shall be punished by *prision correccional*.

Conviction thereunder requires that the prosecution establish the following elements:

1. That the offender commits any act of lasciviousness or lewdness;
2. That it is done under any of the following circumstances:^[18]
 - a) Through force, threat, or intimidation;
 - b) When the offended party is deprived of reason or 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; and