



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Capitan
WILFREDO V. CAPITAN
Division Clerk of Court
Third Division
SEP 24 2016

THIRD DIVISION

THE PEOPLE OF THE PHILIPPINES, G.R. No. 220461

Plaintiff-Appellee,

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
PEREZ,
REYES, and
LEONEN,* JJ.

SPOUSES PRIMO C. YBAÑEZ
AND NILA S. YBAÑEZ, MARIS Q.
REYOS, and MICHELLE T. HUAT,
Accused-Appellants.

Promulgated:

August 24, 2016

X-----*Wilfredo V. Capitan*-----X

DECISION

PERALTA, J.:

The instant case seeks to reverse and set aside the Court of Appeals (CA) Decision¹ dated January 20, 2015 in CA-G.R. CR-HC No. 04913. The CA upheld the Decision² of the Regional Trial Court (RTC) of Taguig City, Branch 163, dated January 11, 2011 in Criminal Case No. 134985, which found accused-appellants spouses Primo C. Ybañez and Nila S. Ybañez (*the Spouses Ybañez*), Mariz Q. Reyos, Michelle T. Huat guilty beyond reasonable doubt of Qualified Trafficking in Persons under Section 6(a) and (c), in relation to Sections 4(a) and 3, and penalized under Section 10(a) and (c) of Republic Act (R.A.) No. 9208, otherwise known as the *Anti-Trafficking in Persons Act of 2003*.

* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated October 19, 2015.

¹ Penned by Associate Justice Melchor Q.C. Sadang, with Associate Justices Japar B. Dimaampao and Franchito N. Diamante; concurring; *rollo*, pp. 2-15.

² Penned by Judge Lili Cruz Suarez; *CA rollo*, pp. 28-34.

An Information was filed charging the Spouses Ybañez, Reyos, and Huat with Qualified Trafficking in Persons, which reads:

That on or about March 2005 until February 15, 2007 in the City of Taguig, Metro Manila, the above-named accused PRIMO C. YBAÑEZ, NILA S. YBAÑEZ, MARIZ Q. REYOS, MICHELLE T. HUAT, in conspiracy with one another, and by means of deceit and taking advantage of the vulnerability of the victims, and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, but under the pretext of domestic employment, did then and there wilfully, unlawfully and knowingly RECRUIT, RECEIVE, HARBOR AND EMPLOY, ANGELINE A. BONETE, KATE M. TURADO, VIRGIE C. ANTONIO and JENNY S. POCO, as a prostitute in Kiray Bar and KTV Club Restaurant under the pretext of being employed as GRO's (Guest Relations Officer) to their damage and prejudice.

That the crime was attended by the qualifying circumstances of minority, victims Angeline Bonete and Virgie Antonio being 15 and 17 years of age, respectively, and that the crime was committed by a syndicate and in large scale.

CONTRARY TO LAW.³

When arraigned on May 21, 2007, the Spouses Ybañez, Reyos, and Huat pleaded not guilty to the crime charged. Thus, trial ensued.

The factual antecedents of the case are as follows:

The prosecution presented Angeline Bonete, Virgie Antonio, and Kate Turado as witnesses. Bonete testified that she was born on February 27, 1991. She started working as a Guest Relations Officer (*GRO*) on May 13, 2006 at Kiray Bar and KTV Club Restaurant (*Kiray*) in Taguig City, which was owned by the Spouses Ybañez, and where Reyos and Huat were working as floor managers. It was her mother who applied for her through Huat. On May 14, 2006, a customer brought her inside the Super VIP room on the second floor of the bar, and they had sexual intercourse. Before Bonete headed home at 3:00 a.m., Nila had given her ₱300.00 as payment. Subsequently, Bonete would also have sexual intercourse with her other customers in the Super VIP room. Virgie Antonio attested that she was born on February 24, 1989. On May 18, 2006, she ran away from home and lived in Bicutan with a certain Lovely, who was then working as a GRO at Kiray. Lovely later brought Antonio to Kiray on June 18, 2006. Nila hired her and told her to start working on the same day. During her orientation, she was told to wear a mini skirt and entertain her customers as "ka-table." On her third night, a customer brought her to the Super VIP room after paying ₱1,000.00 to the cashier. Inside the room, they drank beer and likewise had

³ *Id.* at 28.



sexual intercourse. Antonio was also given ₱300.00 for her work that night. Thereafter, she would have intercourse with her other customers. Lastly, Kate Turado narrated that she had been previously employed at a club near Kiray. In March 2005, she left said club and transferred to Kiray upon Nila and Huat's invitation. Kiray had a ground floor with a band and disco area, and a second floor with two rooms. The Super VIP room was where "gamitan" or sexual intercourse would take place, while the VIP room was for "tyansing only." She was told that she would earn a commission of ₱300.00 if a customer would bring her to the Super VIP room, ₱120.00 for the VIP room, and ₱50.00 if she had ladies' drinks on the ground floor. The customer must pay at the cashier if he wanted to have sex. Turado alleged that Nila and Huat would tell them to agree to have sex even if they did not like the customers. Each time that she was brought to the Super VIP room, she would get a ₱300.00 commission, with or without intercourse. Aside from being "tabled" by customers, she was also made to dance in provocative outfits. After a series of tests and evaluation, Turado was found to be functioning within the mildly retarded level and is not capable of protecting herself.

Marfil Baso, a special investigator of the NBI Anti-Organized Crime Division, testified that on February 15, 2007, he was assigned to investigate an International Justice Mission (*IJM*) report about prostitution and illicit sexual activities at Kiray. On the same day, they held a raid briefing with the Department of Social Welfare and Development and *IJM* representatives where they prepared the marked money and designated *poseur*-customers. They dispensed with the routinary surveillance because *IJM* had already provided them with all the essential information about Kiray, including photos of minors who were allegedly employed there. At around 9:30 p.m., Baso arrived at Kiray with his team. He and two other NBI agents then entered the bar where they were met by two women who took their orders and asked if they wanted ladies to give them company. They said yes and four ladies were sent to their table. Later, Reyos and Huat came and offered to transfer them to the Super VIP rooms on the second floor, where, they were told, they could do whatever they wanted with the girls. But should they wish to have sex with the girls, they would have to pay more. Accordingly, Baso gave ₱3,000.00 to Reyos and Huat for the use of the two Super VIP rooms. Immediately thereafter, Baso used his mobile phone to inform their ground commander, who then announced the raid.

NBI Forensic Chemist Loren Borines testified that she marked the six ₱500.00 bills used in the raid with invisible crayon and fluorescent powder. Upon ultraviolet light examination, she noted the presence of fluorescent specks and smudges on both hands of Reyos and Huat, similar to the ones placed on the marked bills.



On the other hand, Nila denied the charges and asserted that Kiray was engaged in a legitimate business. It was a business establishment where live bands would perform and *barangay tanods* would hold meetings. Kiray did not have private rooms and the VIP room had a glass door with no lock. There was no prostitution or lewd shows in the bar and the employees were prohibited by their rules to flirt or engage in any indecent activity with the customers. Copies of said rules were also visibly posted on the ground and second floors of the establishment. She said that on February 15, 2007, NBI agents arrived at Kiray as customers. They asked to be transferred upstairs and for two more women to join them. One of the agents asked Nila if he could take a woman out. When Nila refused, the agent became angry and banged the beer bottle on the table. She then saw her husband, Primo, being arrested by the NBI. They were then brought to the NBI Compound, together with Reyos, Huat, Bonete, Antonio, and Turado.

On January 11, 2011, the RTC of Taguig City found the Spouses Ybañez, Reyos, and Huat guilty of Qualified Trafficking in Persons under Section 6(a) and (c), in relation to Sections 4(a) and 3, and sentenced them to suffer the penalty of life imprisonment, and ordered them to each pay a fine of ₱2,000,000.00, the costs, and the legal rate of interest, thus:

WHEREFORE, in light of all the foregoing considerations, accused Primo Ybañez, Nila Ybañez, Mariz Reyos, and Michelle Huat are hereby found GUILTY beyond reasonable doubt of Qualified Trafficking in Persons under Section 6 (a) and (c), in relation to Sections 4 (a) and 3, and [are] hereby sentenced to suffer life imprisonment and to each pay a fine of Two Million Pesos (₱2,000,000.00), and the costs, at the legal rate of interest from the time of filing of the Information, until fully paid.

SO ORDERED.⁴

Thus, accused-appellants brought the case to the CA. On January 20, 2015, the CA affirmed the RTC Decision, to wit:

WHEREFORE, the appeal is **DENIED**. The Decision dated January 11, 2011 of the Regional Trial Court of Taguig City, Branch 163 in Criminal Case No. 134985 is **AFFIRMED**.

SO ORDERED.⁵

Accused-appellants are now before the Court, maintaining that the prosecution failed to prove their guilt beyond reasonable doubt.

⁴ *Id.* at 34.

⁵ *Rollo*, p. 14. (Emphasis in the original)



The appeal is devoid of merit.

Trafficking in Persons refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.⁶ When the trafficked person is a child, a person below 18 years of age or one who is over 18 but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition, the offense becomes qualified.⁷ As supported by their birth certificates, Bonete was merely 15 years old and Antonio was 16 when they were hired in 2006. Although Turado was more than 18 years old when she started at Kiray, she was found to be functioning within a mildly retarded level, and therefore, incapable of protecting herself from abuse and exploitation.

The complainants categorically testified that they were hired as GROs and tasked to entertain customers to the extent of even having sexual intercourse with them, and being paid commissions for said services. The bar was likewise designed with a stage where the GROs were made to dance in provocative outfits. It had a VIP room where the customers could caress and grope the girls, and a Super VIP room where they could completely satisfy their lust. Even if the claims regarding the rules prohibiting flirting and lascivious conduct between the GROs and the customers were true, the same would still not absolve accused-appellants from any liability. Said rules were merely posted as meaningless warnings and were never really intended to be implemented, as evidenced by the fact that said prohibited acts had actually been committed, tolerated, and perpetuated at Kiray.

Even assuming that their main task was to serve as waitresses, the evidence would show that Reyos and Huat did more than just serve food and beverages to the customers. As Baso claimed, they even offered to bring him and his team to the Super VIP room and they actually received the amount paid for the "additional service."

⁶ Section 3(a), Republic Act No. 9208, Entitled *An Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the Protection and Support of Trafficked Persons, Providing Penalties for its Violations, and for Other, or the Anti-Trafficking in Persons Act of 2003.*


⁷ Sections 3(b) and 6(a), R.A. No. 9208



Therefore, the courts below aptly found that there was sufficient evidence that accused-appellants were indeed engaged in the recruitment of young women for the purpose of prostitution or sexual exploitation. However, in view of the demise of accused-appellants Primo C. Ybañez⁸ and Nila S. Ybañez,⁹ their names have been dropped as respondents in the instant case pursuant to Article 89 of the Revised Penal Code. Consequently, the case has been considered closed and terminated as to them.¹⁰


WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals, dated January 20, 2015, in CA-G.R. CR-HC No. 04913, affirming the Decision of the Regional Trial Court of Taguig City, Branch 163, dated January 11, 2011 in Criminal Case No. 134985, with respect to accused-appellants Mariz Q. Reyos and Michelle T. Huat, is hereby **AFFIRMED** with **MODIFICATION** as to the legal rate of interest. The Court finds them guilty beyond reasonable doubt of Qualified Trafficking in Persons under Section 6(a) and (c), in relation to Sections 4(a) and 3, and penalized under Section 10(a) and (c) of Republic Act No. 9208, otherwise known as the *Anti-Trafficking in Persons Act of 2003*, sentences them to suffer the penalty of life imprisonment, and orders each of them to pay a fine of ₱2,000,000.00 and the costs, with interest at the rate of six percent (6%) *per annum* from the finality of this Decision until fully paid.

SO ORDERED.

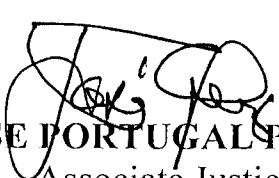


DIOSDADO M. PERALTA
Associate Justice


WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



JOSE PORTUGAL PEREZ
Associate Justice

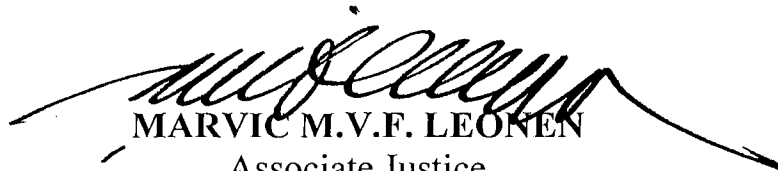


BIENVENIDO L. REYES
Associate Justice

⁸ Rollo, pp. 38-39.

⁹ *Id.* at 40-41.


¹⁰ Resolution dated March 16, 2016, *id.* at 43-44.



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION


I attest 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.



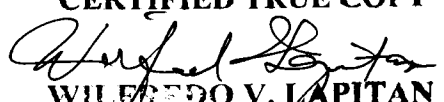
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

SEP 20 2016