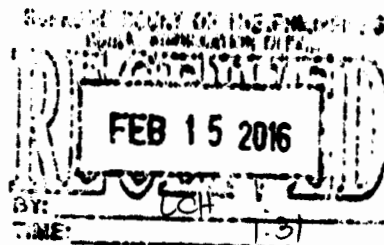




Republic of the Philippines
 Supreme Court
 Manila



FIRST DIVISION

VINSON* D. YOUNG *a.k.a.*
 BENZON ONG and BENNY
 YOUNG *a.k.a.* BENNY ONG,
 Petitioners,

G.R. No. 213910

Present:

- versus -

PEOPLE OF THE
 PHILIPPINES, as represented by
 the OFFICE OF THE
 SOLICITOR GENERAL,
 Respondent.

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

Promulgated:

FEB 03 2016

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RESOLUTION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated September 10, 2013 and the Resolution³ dated July 31, 2014 of the Court of Appeals (CA) in CA-G.R. SP. No. 07147, which reversed and set aside the Order⁴ dated July 24, 2012 of the Regional Trial Court of Cebu City, Branch 22 (RTC) in Criminal Case No. CBU-96106, finding probable cause to indict petitioners Vinson D. Young *a.k.a.* Benzon Ong (Vinson) and Benny Young *a.k.a.* Benny Ong (Benny; collectively, petitioners) for

* "Vinson" in some parts of the *rollo*.

** No part.

¹ *Rollo*, pp. 3-45.

² Id. at 47-59. Penned by Associate Justice Gabriel T. Ingles with Associate Justices Carmelita Salandanan-Manahan and Marilyn B. Lagura-Yap concurring.

³ Id. at 61-62. Penned by Associate Justice Gabriel T. Ingles with Associate Justices Ramon Paul L. Hernando and Marilyn B. Lagura-Yap.

⁴ Id. at 150-168. Penned by Presiding Judge Manuel D. Patalinghug.

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violation of Sections 4 (a) and (e)⁵ in relation to Sections 6 (a) and (c)⁶ of Republic Act No. (RA) 9208,⁷ otherwise known as the “Anti-Trafficking in Persons Act of 2003.”

The Facts

On separate dates,⁸ members of the Regional Anti-Human Trafficking Task Force (RAHTTF) of the Philippine National Police (PNP), namely, PO2 Lyman N. Arsua (PO2 Arsua) and PO2 Napoleon A. Talingting, Jr. (PO2 Talingting, Jr.), among others, conducted surveillance operations at Jaguar KTV Bar (Jaguar) in Cebu City, and observed that its customers paid ₱6,000.00 in exchange for sexual intercourse with guest relations officers (GROs), or ₱10,000.00 as “bar fine” if they were taken out of the establishment. In the course of their surveillance, they learned that: (a) petitioners were the owners of Jaguar; (b) a certain “Tico” acted as overall manager; and (c) a certain “Ann” welcomed customers and offered them GROs.⁹

On April 9, 2011, in the course of an entrapment operation, PO2 Arsua, PO2 Talingting, Jr., and PO1 Jef Nemenzo (PO1 Nemenzo), acting as poseur customers, handed ₱15,000.00 worth of marked money to the “*mamasang*”/manager of Jaguar in exchange for sexual service. At the pre-arranged signal, the rest of the RAHTTF members raided Jaguar resulting to multiple arrests, seizure of sexual paraphernalia, recovery of the marked money from one Jocelyn Balili (Balili),¹⁰ and the rescue of 146 women and

⁵ Sections 4 (a) and (e) of RA 9208 read:

Section 4. *Acts of Trafficking in Persons.* – It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer; harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

x x x x

(e) To maintain or hire a person to engage in prostitution or pornography[.]

⁶ Sections 6 (a) and (c) of RA 9208 read:

Section 6. *Qualified Trafficking in Persons.* – The following are considered as qualified trafficking:

(a) When the trafficked person is a child;

x x x x

(c) When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group[.]

⁷ 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 PURPOSES,” approved on May 26, 2003.

⁸ These dates pertain to March 16, 18, 22, and 26, 2011; see *rollo*, p. 63.

⁹ *Id.*

¹⁰ *Id.* at 67.

minor children.¹¹ Later, six (6) of these women – who all worked at Jaguar as GROs, namely, AAA, BBB, CCC, DDD, EEE, and FFF¹² (AAA Group) – executed affidavits¹³ identifying petitioners, Tico, and Ann as Jaguar’s owners. Accordingly, a criminal complaint for violation of Sections 4 (a) and (e) in relation to Sections 6 (a) and (c) of RA 9208 was filed against them, before the Office of the City Prosecutor, Cebu City (OCP), docketed as NPS Docket No. VII-09-INV-IID00605.¹⁴

In defense, Vinson denied ownership of Jaguar and asserted that he had sold his rights and interests therein to one Charles Theodore Rivera pursuant to a Deed of Assignment¹⁵ dated December 14, 2009 (December 14, 2009 Deed of Assignment). Not being the manager nor owner of Jaguar, therefore, he had no control and supervision over the AAA Group, with whom he denied acquaintance. Similarly, Benny claimed that he was neither the owner nor manager of Jaguar and was not even present during the raid. He raised “mistake in identity” as defense, stressing that he was not the same person identified by the AAA Group in their respective affidavits.¹⁶

During the pendency of the preliminary investigation, or on May 31, 2011, the AAA Group submitted affidavits¹⁷ stating that their previous affidavits were vitiated and not of their own free will and voluntary deed,¹⁸ effectively recanting the same.

The OCP Ruling

In a Resolution¹⁹ dated October 27, 2011, the OCP found probable cause and ordered the indictment of petitioners, Tico, and Ann for violation of Sections 4 (a) and (e) in relation to Sections 6 (a) and (c) of RA 9208.

¹¹ Id. at 63 and 65.

¹² The real names of these victims are withheld per RA 7610 entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992 and RA 9262 entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES,” approved on March 8, 2004. See *People v. Cabalquinto*, 533 Phil. 703 (2006). In addition, EEE and FFF are minors.

¹³ *Rollo*, pp. 473-496.

¹⁴ Id. at 65.

¹⁵ Id. at 121-122.

¹⁶ Id. at 65-66.

¹⁷ Id. at 501-520.

¹⁸ See id. at 66.

¹⁹ Id. at 63-72. Signed by Prosecutor II Gandhi B. Truya with the approval of City Prosecutor Nicolas C. Sellon.

It found that the receipt and subsequent recovery of the marked money from Balili constituted *prima facie* evidence that there was a transaction to engage in sexual service for a fee.²⁰ It also held that the documentary evidence pertaining to Jaguar's business operations, as well as the positive identification made by the AAA Group, sufficiently established petitioners as its owners. Besides, it noted that Vinson's defense – *i.e.*, that he had divested his interests in Jaguar – was evidentiary in nature and hence, must be threshed out in a full-blown trial. Moreover, while the AAA Group had since retracted their initial statements, their retractions were found to hold no probative value. Finally, while the OCP ruled that the crime of human trafficking was qualified for being committed by a syndicate, or in large scale – carried out by three (3) or more persons – it, however, did not appreciate the minority of EEE and FFF as a qualifying circumstance, not having been substantiated by sufficient and competent evidence.²¹

Separately, both parties moved for reconsideration.²² In a Resolution²³ dated April 23, 2012, the OCP modified its previous ruling and considered the minority of EEE and FFF based on the certified true copies of their certificates of live birth²⁴ as additional qualifying circumstance. On May 29, 2012, the corresponding information²⁵ was filed before the RTC, docketed as Crim. Case No. CBU-96106.

On June 18, 2012, petitioners filed an omnibus motion²⁶ for a judicial determination of probable cause, praying that the issuance of the corresponding warrants of arrest be held in abeyance pending resolution thereof, and for the case against them to be dismissed for lack of probable cause.²⁷

The RTC Ruling

In an Order²⁸ dated July 24, 2012, the RTC granted the omnibus motion and dismissed the case for lack of probable cause.²⁹ It ruled that the affidavits of the RAHTTF members and the AAA Group failed to show that petitioners had knowledge or participated in the recruitment of the 146 women and minors who were rescued at Jaguar as sex workers. It also found that the recantations of the AAA Group were fatal to the prosecution's case, since it effectively cleared petitioners of any knowledge in Jaguar's operations. It further reasoned that the December 14, 2009 Deed of

²⁰ Id. at 67.

²¹ See id. at 68-71.

²² See petitioners' motion for reconsideration dated January 26, 2012; id. at 73-80 and respondent's partial motion for reconsideration dated February 21, 2012; id. at 89-91.

²³ Id. at 98-102. Penned by Assistant State Prosecutor Gilmarie Fe S. Pacamarra.

²⁴ Id. at 93-94.

²⁵ Id. at 103-104. Issued by Prosecutor II Gandhi B. Truya.

²⁶ Id. at 105-116.

²⁷ Id. at 116.

²⁸ Id. at 150-168. Penned by Presiding Judge Manuel D. Patalinghug.

²⁹ Id. at 167-168.

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Assignment – the authenticity, due execution, and validity of which were not impugned by the prosecution – showed that Vinson had already ceded his rights and interests in Jaguar.³⁰

Dispensing with the filing of a motion for reconsideration, respondent People of the Philippines, through the Office of the Solicitor General (OSG), filed a petition for *certiorari*³¹ before the CA, docketed as CA G.R. SP. No. 07147, imputing grave abuse of discretion on the part of the RTC in dismissing the case for lack of probable cause. In their Comment,³² petitioners maintained that the RTC properly dismissed the case. Procedurally, they also pointed out that the correct remedy on the part of the OSG was to file an appeal, not a petition for *certiorari*. Even assuming that a *certiorari* petition was the proper mode of review, the OSG's failure to file a prior motion for reconsideration was a fatal infirmity warranting the petition's outright dismissal.³³

The CA Ruling

In a Decision³⁴ dated September 10, 2013, the CA found that the RTC committed grave abuse of discretion in dismissing the case for lack of probable cause. Consequently, it ordered the reinstatement of the information and remanded the case to the RTC for further proceedings.³⁵ The CA primarily reasoned out that the court *a quo* failed to consider the other evidence proffered by the prosecution to support its finding of probable cause, and that it delved on evidentiary issues in evaluating the affidavits submitted by the prosecution which are matters better ventilated during the trial proper than at the preliminary investigation level.³⁶

The CA, however, did not touch on the issue of the propriety of the *certiorari* petition filed by the OSG.

Aggrieved, petitioners moved for reconsideration³⁷ which was, however, denied in a Resolution³⁸ dated July 31, 2014; hence, the instant petition.

³⁰ See *id.* at 156-163.

³¹ Dated September 28, 2012. *Id.* at 169-241.

³² Dated December 4, 2012. *Id.* at 409-420.

³³ *Id.* at 410-415.

³⁴ *Id.* at 47-59.

³⁵ *Id.* at 59.

³⁶ See *id.* at 57-58.

³⁷ See motion for reconsideration dated October 7, 2013; *id.* at 430-445.

³⁸ *Id.* at 61-62.

The Issues Before the Court

The essential issues for the Court's resolution are: (a) whether or not the CA erred in finding grave abuse of discretion on the part of the RTC in dismissing the criminal case against petitioners for lack of probable cause; and (b) whether or not a motion for reconsideration is a prerequisite to filing a *certiorari* petition.

The Court's Ruling

The petition is bereft of merit.

Determination of probable cause is either executive or judicial in nature.

The first pertains to the duty of the public prosecutor during preliminary investigation for the purpose of filing an information in court. At this juncture, the investigating prosecutor evaluates if the facts are sufficient to engender a well-founded belief that a crime has been committed and that the accused is probably guilty thereof.³⁹

On the other hand, judicial determination of probable cause refers to the prerogative of the judge to ascertain if a warrant of arrest should be issued against the accused. At this stage, the judge makes a preliminary examination of the evidence submitted, and on the strength thereof, and independent from the findings of the public prosecutor, determines the necessity of placing the accused under immediate custody in order not to frustrate the ends of justice.⁴⁰

In *People v. Inting*,⁴¹ the stark distinctions between executive and judicial determination of probable cause were aptly explained, thus:

Judges and Prosecutors alike should distinguish the preliminary inquiry which determines probable cause for the issuance of a warrant of arrest from the preliminary investigation proper which ascertains whether the offender should be held for trial or released. Even if the two inquiries are conducted in the course of one and the same proceeding, there should be no confusion about the objectives. **The determination of probable cause for the warrant of arrest is made by the Judge.** The preliminary investigation proper whether or not there is reasonable ground to believe that the accused is guilty of the offense charged and, therefore, whether or not he should be subjected to the expense, rigors and embarrassment of trial is the function of the Prosecutor.⁴² (Emphasis supplied)

³⁹ See *People v. Castillo*, 607 Phil. 754, 764-767 (2009).

⁴⁰ Id. at 765.

⁴¹ 265 Phil. 817 (1990).

⁴² Id. at 821-822.

Pertinently, the Court declared in *Santos-Dio v. CA*⁴³ (*Santos-Dio*) that while a judge's determination of probable cause is generally confined to the limited purpose of issuing arrest warrants, he is nonetheless authorized under Section 5 (a),⁴⁴ Rule 112 of the Revised Rules of Criminal Procedure to immediately dismiss the case if the evidence on record clearly fails to establish probable cause. Thus:

In this regard, so as not to transgress the public prosecutor's authority, **it must be stressed that the judge's dismissal of a case must be done only in clear-cut cases when the evidence on record plainly fails to establish probable cause – that is when the records readily show uncontroverted, and thus, established facts which unmistakably negate the existence of the elements of the crime charged. On the contrary, if the evidence on record shows that, more likely than not, the crime charged has been committed and that respondent is probably guilty of the same, the judge should not dismiss the case and thereon, order the parties to proceed to trial.** In doubtful cases, however, the appropriate course of action would be to order the presentation of additional evidence.⁴⁵ (Emphasis supplied)

Accordingly, a judge may dismiss the case for lack of probable cause only in clear-cut cases when the evidence on record plainly fails to establish probable cause – that is when the records readily show uncontroverted, and thus, established facts which unmistakably negate the existence of the elements of the crime charged.⁴⁶

Applying the standard set forth in *Santos-Dio*, the evidence on record herein does **not** reveal the unmistakable and clear-cut absence of probable cause against petitioners. Instead, a punctilious examination thereof shows that the prosecution was able to establish a *prima facie* case against petitioners for violation of Sections 4 (a) and (e) in relation to Sections 6 (a) and (c) of RA 9208. As it appears from the records, petitioners recruited and hired the AAA Group and, consequently, maintained them under their employ in Jaguar for the purpose of engaging in prostitution. In view of this, probable cause exists to issue warrants for their arrest.

⁴³ G.R. Nos. 178947 and 179079, June 26, 2013, 699 SCRA 614.

⁴⁴ Section 5 (a), Rule 112 of the Revised Rules of Criminal Procedure provides:

Section 5. *When warrant of arrest may issue.* – (a) *By the Regional Trial Court.* – Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. **He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause.** If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested, pursuant to a warrant issued by the judge who conducted preliminary investigation or when the complaint or information was filed pursuant to Section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information. (Emphasis supplied)

⁴⁵ *Santos-Dio*, supra note 43, at 635.

⁴⁶ *Id.*

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Moreover, the Court notes that the defenses raised by petitioners, particularly their disclaimer that they are no longer the owners of the establishment where the sex workers were rescued, are evidentiary in nature – matters which are best threshed out in a full-blown trial. Thus, the proper course of action on the part of the RTC was not to dismiss the case but to proceed to trial. Unfortunately, and as the CA aptly observed, the RTC arrogated upon itself the task of dwelling on factual and evidentiary matters upon which it eventually anchored the dismissal of the case. Consequently, grave abuse of discretion was correctly imputed by the CA against the RTC for its action.

Anent the question of whether a motion for reconsideration is a prerequisite to the filing of a *certiorari* petition, the Court finds the OSG's argument well-taken. In this regard, jurisprudence has carved out specific exceptions allowing direct resort to a *certiorari* petition, such as: (a) **where the order is a patent nullity, as where the court *a quo* has no jurisdiction**; (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were *ex parte*, or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or **where public interest is involved**.⁴⁷

In this case, the assailed RTC Order was a patent nullity for being rendered with grave abuse of discretion amounting to lack or in excess of jurisdiction.⁴⁸ Significantly, the present case involves public interest as it imputes violations of RA 9208, or the "Anti-Trafficking in Persons Act of 2003," a crime so abhorrent and reprehensible that is characterized by sexual violence and slavery.⁴⁹ Accordingly, direct resort to a *certiorari* petition sans a motion for reconsideration is clearly sanctioned in this case.

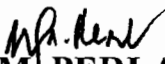
⁴⁷ *Republic v. Bayao*, G.R. No. 179492, June 5, 2013, 697 SCRA 313, 323; *Republic v. Pantranco North Express, Inc.*, 682 Phil. 186, 194 (2012); and *Siok Ping Tan v. Subic Bay Distribution, Inc.* 653 Phil. 124, 136-137 (2010), emphases supplied.

⁴⁸ See *People v. CA*, G.R. No. 183652, February 25, 2015; and *Republic v. Lazo*, G.R. No. 195594, September 29, 2014, 737 SCRA 1, 19.

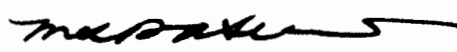
⁴⁹ "Trafficking in human beings, if only to emphasize the gravity of its hideousness, is tantamount to modern-day slavery at work. It is a manifestation of one of the most flagrant forms of violence against human beings. Its victims suffer the brunt of this insidious form of violence. It is exploitation, coercion, deception, abduction, rape, physical, mental and other forms of abuse, prostitution, forced labor, and indentured servitude." (See *People v. Casio*, G.R. No. 211465, December 3, 2014, citing the Sponsorship Speech of Senator Luisa Ejercito Estrada, Record of the Senate, Volume II, No. 42, Twelfth Congress Second Regular Session, October 15-December 18, 2002, pp. 614-616.)


WHEREFORE, the petition is **DENIED**. The Decision dated September 10, 2013 and the Resolution dated July 31, 2014 of the Court of Appeals in CA-G.R. SP. No. 07147 are hereby **AFFIRMED**.

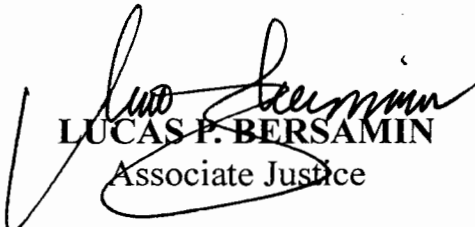
SO ORDERED.



ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

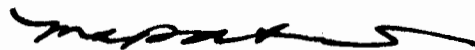

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


FRANCIS H. JARDELEZA *NO PART*
Associate Justice *Prion DSG action*

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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