



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 234161**
 Plaintiff-Appellee,

Present:

CARPIO, J.,
Chairperson,
 PERLAS-BERNABE,
 CAGUIOA,
 A. REYES, JR., and
 J. REYES, JR.,* JJ.

- versus -

LUDIVICO PATRIMONIO
BANDOJO, JR. and KENNY JOY
VILLACORTA ILETO,
 Accused-Appellants.

Promulgated:

17 OCT 2018

X-----*Alfredo Reyes*-----X

DECISION

A. REYES, JR., J.:

This is an appeal¹ from the Decision² dated May 15, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08276, which affirmed the conviction of Ludivico Patrimonio Bandojo, Jr. (Ludivico) and Kenny Joy Villacorta Ileta (Kenny Joy) (collectively referred to as the accused-appellants) for violation of Section 4(a), in relation to Section 6(a), of Republic Act (R.A.) No. 9208, otherwise known as “*The Anti-Trafficking in Persons Act of 2003.*”

* Designated as Acting Member per Special Order No. 2587 dated August 28, 2018.

¹ CA rollo, pp. 199-201.

² Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Amy C. Lazaro-Javier and Pedro B. Corales concurring; id. at 125-158.

Reyes

Factual Antecedents

The accused-appellants were charged before the Regional Trial Court (RTC) of Manila, Branch 29 in two separate Informations with the crimes of Qualified Trafficking in Persons³ and Trafficking in Persons⁴ docketed as Criminal Cases Nos. 12-293693 and 12-293694. The accusatory portions of the said Informations state:

In Criminal Case No. 12-293693:

That on or about and sometime prior to **November 8, 2012**, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each another [sic], did then and there willfully, unlawfully and knowingly, recruit and hire [AAA],⁵ a **17[-]year[-]old minor** to engage in sexual intercourse with a police officer and other male clients for monetary consideration, by means of taking advantage of her vulnerability and for the purpose of prostitution and sexual exploitation.

Contrary to law.⁶

In Criminal Case No. 12-293694:

That on or about and sometime prior to **November 8, 2012**, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each another [sic], did then and there willfully, unlawfully and knowingly, recruit and hire [BBB] to engage in sexual intercourse with male clients for monetary consideration, by means of taking advantage of her vulnerability and for the purpose of prostitution and sexual exploitation.

Contrary to law.⁷

Upon arraignment, both accused-appellants pleaded not guilty to the crimes charged. A pre-trial conference was subsequently conducted and concluded. Thereafter, trial on the merits ensued.⁸

The private complainant, AAA, was born on April 9, 1995. At the time the crime was committed on November 8, 2012, she was 17 years old. She is the second child among four children and since her father has no regular income while her mother earns only Php 200.00 per day tending to

³ RTC records, pp. 2-3.

⁴ Id. at 5-6.

⁵ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]) and the Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁶ RTC records, p. 2.

⁷ Id. at 5.

⁸ CA rollo, p. 127.

Meyer

their store, her parent's income is not sufficient to meet their family's daily sustenance.⁹

On March 2, 2012, AAA was about to graduate from high school when she met Christian Iletto (Christian), the brother of accused-appellant Kenny Joy. Sometime in August 2012, AAA and Christian, together with their friends, went to Padi's Point. They were having drinks thereat when Christian asked her, "*Be, gusto mo ng raket?*" Thinking that "*raket*" simply means chatting with men, she agreed and gave her cellular phone number to him.¹⁰

The following day, AAA received a text message from Kenny Joy who introduced herself to her as "Cherish." Kenny Joy asked if AAA needed a *raket* and because she needed the money, she replied in the affirmative. She was then asked to describe herself and was later informed of the basic rules of the trade. Kenny Joy told her that the minimum fee is Php 1,500.00, depending on AAA "if, it is one (1) pop or two (2) pops." After inquiring on what the terms mean, she was told she will have sex and one (1) pop is one (1) *putok* and two (2) pops are "*dalawang beses na putok*." With the information given, AAA did not reply to Kenny Joy's message.¹¹

Unfortunately, due to financial difficulties and to help her parents, as well as to buy some gadgets for herself, AAA texted Kenny Joy on September 4, 2012 and requested for a *raket*. The following day, AAA was booked to a British National. AAA met with Kenny Joy in a bus terminal in Quezon City where they proceeded to a condominium in Makati City. Thereat, the condominium attendant called the subject and they eventually proceeded to the unit. In the condominium unit, the British man had a short conversation with AAA and subsequently brought her inside his room while Kenny Joy waited in the living room. Inside the room, AAA had sexual intercourse with the said man and thereafter, she was paid the amount of Php 5,000.00.¹²

Sometime in the third week of October, Kenny Joy sent another text message to AAA, giving her another *raket*. Although reluctant, AAA agreed and met Kenny Joy at a convenience store in Quezon City. This time, Kenny Joy introduced AAA to a customer who is also a police officer. After talking briefly, AAA and the police officer proceeded to a motel while Kenny Joy waited at the convenience store. For a fee of Php 3,000.00, AAA had sexual intercourse with the police officer. From her fee, AAA gave an amount of Php 500.00 to Kenny Joy.¹³

⁹ Id. at 59.

¹⁰ Id.

¹¹ Id. at 59-60.

¹² Id. at 60-61.

¹³ Id. at 61.

Meyer

Meanwhile, on October 21, 2012, the National Bureau of Investigation (NBI), through Arnold Mallari, received information from Ms. Pinky Webb of ABS-CBN regarding the account name "Under One Roof" on the social media networking website Facebook which allegedly offers sexual services of minors. To infiltrate the aforementioned account, Agent Francis Señora (Agent Señora) created a Facebook account in the name of "Prettyvoy Gasgas." Through the latter account, he conducted technical surveillance on Under One Roof and came across the account of one of its members, Jhanne David (later identified as accused-appellant Ludivico), whose wall contains, "SA MGA MY WANT NYO NG WALK SEE MY ALBUM PILI NA LANG KAYO NG WANT.NYO GUYS TEXT KAYO PAG MAY WANT NA KAYO OK." Clicking the account of Jhanne David revealed photographs of different ladies and one of them is AAA.¹⁴

Agent Señora contacted Jhanne David (Ludivico) through the cellular numbers posted on the latter's account. From their text messages, it appears that Jhanne David (Ludivico) is a male and the handler of the ladies who provide different sexual services for a fee which, ranges from Php 3,000.00 to Php 5,000.00. The terms of payment include a 50% down payment with the balance to be given to the girl. Later, Jhanne David (Ludivico) agreed to provide Agent Señora with two girls for sexual services who will be brought to a hotel in Manila for the amount of Php 3,000.00 each.¹⁵

On November 7, 2012, AAA received another text message from Kenny Joy wherein she was informed that the latter's friend needs girls and that she was included among them. The *raket* will be in Manila and the price would be Php 3,000.00 per head. The following day, AAA and Kenny Joy headed for a mall where they met Ludivico. From the FX terminal, they proceeded to the hotel.¹⁶

The NBI, on the other hand, made the necessary preparations for the entrapment operation. Armed with four pieces of Php 500.00 bills dusted with fluorescent powder, the NBI operatives proceeded to the hotel at around 3:00 p.m. of November 8, 2012. Not long after, Ludivico arrived together with AAA and another woman, BBB. After he received the down payment from Agent Señora, Ludivico entrusted the women to the NBI operatives. As soon as the operatives went to the rooms, the women asked for their payments and after the agents acceded, they introduced themselves as NBI officers.¹⁷

¹⁴ Id. at 61-62.

¹⁵ Id. at 62.

¹⁶ Id. at 63.

¹⁷ Id.

Meyer

Ludivico and Kenny Joy were arrested at the coffee shop where the four pieces of Php 500.00 bills were recovered from the former. After a Fluorescent Powder Examination, Ludivico and the peso bills retrieved in the possession of the accused-appellants were found to be positive for the presence of fluorescent powder, while the examination on Kenny Joy yielded negative results.¹⁸

During trial, the accused-appellants denied the accusation against them. They denied knowing BBB prior to their arrest and claimed they only came to know her at the NBI. They have not seen BBB after their arrest nor did she appear in court to testify. They also denied knowing each other prior to the incident.¹⁹

Kenny Joy claimed that she is a food vendor selling snacks like *ginataang bilo-bilo*, *maruya*, and banana *cue* in front of her house and that AAA is her customer. Kenny Joy alleges that AAA asked her company in going to a mall in Manila, because the latter needed to get her things from somewhere in the area. While she refused the invitation at first, she eventually agreed and the two of them went to the mall on November 8, 2012.²⁰

At around 2:00 p.m., Kenny Joy and AAA arrived at the mall where they proceeded to a restaurant to eat. After leaving the restaurant, Kenny Joy claimed to have overheard AAA talking on the phone and looking for a particular place. Thereafter, they went out of the mall where AAA left Kenny Joy on the street and entered a building. After a while, AAA exited the building with Ludivico, who walked behind her carrying bags.²¹

Upon seeing AAA and Ludivico, Kenny Joy crossed the street to meet them. When she got hold of AAA's things, 15 men ran towards them. These men arrested Kenny Joy and Ludivico and brought them to the NBI while AAA was separated from the group. While she was detained at the Manila City Jail (MCJ), Kenny Joy was visited by AAA where the latter allegedly begged the former for forgiveness saying, "*Ate pasensiya na ito talaga ang gawain ko.*" AAA allegedly told Kenny Joy that she cannot do anything at the NBI except to act as a complainant.²²

One Senior Jail Officer 1 Robert Parel corroborated Kenny Joy's testimony only insofar as the record of the Bureau of Jail Management and Penology (BJMP) indicates that a certain AAA visited the said accused-appellant at the MCJ.²³

¹⁸ Id. at 63-64.

¹⁹ Id. at 64.

²⁰ Id. at 64-65.

²¹ Id. at 65.

²² Id.

²³ Id. at 66.

Reyes

On the other hand, Ludivico claimed he was a freelance computer graphic artist and not a pimp. He also denied having offered the sexual services of AAA for a fee. According to Ludivico, AAA had entrusted a bag to him. On the date he was arrested, AAA asked him to go to her ex-boyfriend's place in Manila as the said bag belongs to the latter. Thus, Ludivico met AAA in a coffee shop inside a hotel in Manila. When he gave AAA the said bag, AAA's ex-boyfriend, who was seated in a different table, tapped Ludivico and surreptitiously gave him money under the table while he was having his coffee. He was then shocked when people ran after them as they left the coffee shop. They were arrested and ushered inside a red Revo vehicle. Meanwhile, AAA and her ex-boyfriend had disappeared. Ludivico further claimed that there is neither reason nor prior misunderstanding with NBI agents who arrested them.²⁴

Ruling of the RTC

On April 26, 2016, the RTC rendered its Joint Decision,²⁵ convicting the accused-appellants for violation of Section 4(a), in relation to Section 6(a), of R.A. No. 9208 in Criminal Case No. 12-293693. However, the RTC acquitted them in Criminal Case No. 12-293694 for failure of the prosecution to establish their guilt beyond reasonable doubt. The dispositive portion of the said decision provides:

WHEREFORE, premises considered, this Court finds [the accused-appellants] guilty beyond reasonable doubt, for the crime of Violation of Section 4 (a) in relation to Section 6 (a) of R.A. 9208 in Criminal Case 12-293693 and hereby imposes a penalty of life imprisonment without the benefit of parole and to pay a fine of Two Million Pesos (P2,000,000.00). In addition, [the accused-appellants] is further ordered to indemnify the private complainant Five Hundred Thousand Pesos (P500,000.00) as moral damages and Two Hundred Thousand Pesos (P200,000.00) as exemplary damages.

In Criminal Case No. 12-293694, the prosecution having failed to establish the guilt of the accused, [the accused-appellants] are hereby acquitted.

No costs.

SO ORDERED.²⁶

Aggrieved, the accused-appellants elevated the case before the CA through a Joint Notice of Appeal²⁷ dated May 4, 2016.

²⁴ Id.

²⁵ Rendered by Judge Roberto P. Quiroz; id. at 57-76.

²⁶ Id. at 75-76.

²⁷ Id. at 16-17.

Meyer

Ruling of the CA

In the assailed Decision²⁸ dated May 15, 2017, the CA denied the accused-appellants' appeal and affirmed the decision of the RTC with modifications, to wit:

WHEREFORE, premises considered, the appeal is **DENIED**. The Joint Decision dated 26 April 2016 of the [RTC] of Manila, Branch 29 in *Crim. Case No. 12-293693*, finding [the accused-appellants] guilty beyond reasonable doubt of the crime of qualified trafficking in persons under Section 4(a) in relation to Section 6(a) of [R.A.] No. 9208, as amended by [R.A.] No. 10364, sentencing accused-appellants to suffer the penalty of life imprisonment without eligibility for parole, to pay a fine of Two Million Pesos (Php2,000,000.00), and to pay the victim AAA Five Hundred Thousand Pesos (Php500,000.00) as moral damages is **AFFIRMED** with **MODIFICATIONS** in that **each** of the accused-appellants shall suffer the said penalty of life imprisonment and pay a fine of Php2,000,000.00; and accused-appellants shall jointly and severally pay the victim Php500,000.00 as moral damages, and the reduced amount of Php100,000.00 as exemplary damages, with interest at the rate of six percent (6%) *per annum* from the finality of this Decision until fully paid.

SO ORDERED.²⁹

Hence, this appeal.

The Issues

Based on the parties' averments before the CA, the issues raised for resolution before this Court are: (1) whether the prosecution was able to prove beyond reasonable doubt the guilt of the accused-appellants for the crime of human trafficking; (2) whether the RTC erred in finding the presence of conspiracy; and (3) whether the RTC erred in disregarding the accused-appellants' defense of denial.

The plaintiff-appellee, through the Office of the Solicitor General (OSG), maintains that, as established during trial, Kenny Joy recruited and hired AAA, a 17-year-old girl, to prostitute herself to paying customers, taking advantage of the latter's minority, lack of discernment, and financial hardships. Thus, the prosecution was able to prove beyond reasonable doubt the existence of all the elements constituting a violation of Section 4(a), in relation to Section 10(a), of R.A. No. 9208.³⁰ The plaintiff-appellee further submits that the allegation that AAA was not recruited as it was the latter who asked for a *raket* is of no moment, as consent of the

²⁸ Id. at 125-158.

²⁹ Id. at 155.

³⁰ Id. at 101-108.

Meyer

victim is not a defense when the vulnerability of the trafficked person is taken advantage of. Maintaining that the crime was committed with conspiracy, the plaintiff-appellee argues that there was overwhelming proof presented during the trial to show accused-appellants' concerted action for a common end. Lastly, the plaintiff-appellee contends that the trial court properly rejected the accused-appellants' denial as the same cannot prevail over the positive testimony of a witness.³¹

On the other hand, the accused-appellants argue that the prosecution failed to prove that they were engaged in any activity which would constitute human trafficking. They maintain that it was AAA who asked Kenny Joy for a *raket*. The trial court also failed to consider the statement made by AAA to Kenny Joy when the latter was arrested as well as her act of visiting said accused-appellant while she was detained at the MCJ. Such a revelation only proves that AAA was not recruited, much less threatened, forced, or coerced by the accused-appellants to engage in prostitution. Arguing against the existence of conspiracy between the two of them, the accused-appellants submit that there was no proof showing that they came to an agreement to commit human trafficking. Furthermore, accused-appellants contend that while it was proved during the trial that AAA was only 17 years old at the time she was allegedly rescued, the prosecution failed to prove that they had full knowledge of the same. Lastly, considering the weakness of the prosecution's evidence, accused-appellants argue that the trial court erred in dismissing their defense of denial.³²

Ruling of the Court

The Court affirms the accused-appellants' conviction.

The elements of the crime charged

Pertinent to this case are Sections 4(a) and 6(a) of R.A. No. 9208, to wit:

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

³¹ Id. at 108-109.

³² Id. at 49-52.

Meyer

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

- (a) **When the trafficked person is a child[.]** (Emphasis Ours)

Meanwhile, Section 3, paragraphs (a) and (b) of the same statute define the terms “trafficking in persons” and “child”, *viz.*:

Section 3. *Definition of Terms.* - As used in this Act:

(a) ***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.

The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as “trafficking in persons” even if it does not involve any of the means set forth in the preceding paragraph.

(b) ***Child*** - refers to **a person below eighteen (18) years of age** or one who is over eighteen (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. (Emphasis Ours)

While R.A. No. 9208 has been recently amended by R.A. No. 10364,³³ the old law still applies in the instant case, considering that the crime was committed on November 8, 2012 or before R.A. No. 10364 was approved on February 6, 2013.

In *People v. Casio*,³⁴ the Court defined the elements of trafficking in persons, as derived from Section 3(a) of R.A. No. 9208, to wit:

- (1) The ***act of “recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders.”***

³³ AN ACT EXPANDING 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 PURPOSES”. Approved on February 6, 2013.

³⁴ 749 Phil. 458 (2014).

Meyer

- (2) The **means used** which include “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;[”] and
- (3) The **purpose** of trafficking is **exploitation** which includes “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.”³⁵ (Emphasis Ours and italics in the original)

The crime is further qualified under Section 6(a) of R.A. No. 9208 when the trafficked person is a child.

In the instant case, the prosecution was able to establish the presence of all the elements of the crime by testimonial and documentary evidence.

As to the first element and third elements, the testimony of AAA established that it was Kenny Joy who recruited her to engage in prostitution by offering her *rakets* where she could earn money by having sexual relations with clients the latter had found.³⁶ AAA further averred that Kenny Joy accompanied her to meet such clients, waited for her, and received money after her relations with the clients concluded.³⁷ Meanwhile, the testimony of NBI Agent Señora established that Ludivico (under the name Jhanne David), provides the sexual services of women through a Facebook account. It was Ludivico, together with Kenny Joy, who brought AAA to meet Agent Señora during the entrapment operation. The down payment, consisting of four Php 500.00 bills dusted with fluorescent powder, was paid by Agent Señora to Ludivico.³⁸ During the latter’s arrest, the said entrapment money was recovered from him as evidenced by the results of the Fluorescent Powder Examination where Ludivico and the bills were found positive for the presence of fluorescent powder.³⁹

As to the second element, while AAA did not immediately accede to the proposition initially made by Kenny Joy, she eventually yielded and asked for a *raket* because she needed the money. It is, thus, apparent that the accused-appellants took advantage of AAA’s and her family’s abject poverty in recruiting her to engage in prostitution.

Lastly, AAA’s Certificate of Live Birth evidenced the fact that she was born on April 9, 1995⁴⁰ and was only 17 years old, a minor, at the time the crime was committed on November 8, 2012.

³⁵ Id. at 472-473.

³⁶ CA *rollo*, pp. 59-61.

³⁷ Id. at 60-61.

³⁸ Id. at 61-63.

³⁹ Id. at 63-64.

⁴⁰ Id. at 59.

Meyer

Consent of the minor is not a defense
under R.A. No. 9208

Contrary to the accused-appellants' submission, the fact that AAA had asked Kenny Joy for a *raket* and that she visited the said accused-appellant in prison does not negate their criminal liability.

As previously cited, Section 3(a) of R.A. No. 9208 clearly states that trafficking in persons may be committed with or without the victim's consent or knowledge.

Furthermore, in *Casio*,⁴¹ the Court ruled that the victim's consent is rendered meaningless due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking. Even without the use of coercive, abusive, or deceptive means, a minor's consent is not given out of his or her own free will.⁴²

Knowledge of private complainant's
minority is immaterial

Accused-appellants likewise argue that the prosecution failed to prove their knowledge of AAA's minority at the time the crime was committed.

As observed by the CA, under Section 6(a) of R.A. No. 9208, Trafficking in Persons automatically becomes qualified upon proof that the trafficked person is a minor or a person below 18 years of age. Evidently, knowledge of the accused-appellants with regard to AAA's minority is inconsequential with respect to qualifying the crime of Trafficking in Persons.

Accordingly, the Court finds that all elements of the crime of Violation of Section 4(a), in relation to Section 6(a), of R.A. No. 9208 were duly established by the prosecution.

Proof of the conspiracy need not be
based on direct evidence; it may be
inferred from the conduct of the
parties

⁴¹ Supra note 33.

⁴² Id. at 475-476.

Meyer

Anent the second issue, the accused-appellants contend that the prosecution's evidence was bereft of any proof showing that they came to an agreement to commit human trafficking. They maintain that they met each other only on the day they were arrested. Therefore, they could not have conspired together to supposedly recruit AAA since they were practically strangers to each other prior to their arrest.

The Court disagrees.

The elements of conspiracy are the following: (1) two or more persons came to an agreement, (2) the agreement concerned the commission of a felony, and (3) the execution of the felony was decided upon. Proof of the conspiracy need not be based on direct evidence, because it may be inferred from the parties' conduct indicating a common understanding among themselves with respect to the commission of the crime. Neither is it necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or objective to be carried out. The conspiracy may be deduced from the mode or manner in which the crime was perpetrated; it may also be inferred from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest.⁴³ (Citation omitted)

Here, testimonial evidence of the prosecution established that Agent Señora, after conducting technical surveillance on Ludivico's Facebook account, contacted the latter where they agreed that sexual services will be provided by two girls at a hotel on November 8, 2012 for the price of Php 3,000.00 each. Meanwhile, Kenny Joy contacted AAA regarding the said transaction. AAA then met with Kenny Joy and Ludivico before proceeding to the hotel where the latter obtained the down payment consisting of the entrapment money. After the NBI agents identified themselves, both Ludivico and Kenny Joy were arrested while they were waiting for the girls. The entrapment money was likewise recovered and the same, along with Ludivico, tested positive for the presence of fluorescent powder.

Taken all together, the foregoing circumstances reveal a joint purpose, design, and concerted action in committing the crime of qualified trafficking in persons. Through their concerted efforts, the accused-appellants facilitated the prostitution of AAA, a minor, where she was made to render sexual services in exchange for monetary consideration.

Positive identification of the accused-appellants prevails over denial

⁴³ *People v. Lago*, 411 Phil. 52, 59 (2001).

Meyer

Anent the third issue, the accused-appellants aver that the RTC erred in simply dismissing their defense of denial despite what they consider as weaknesses in the prosecution's evidence. They contend that not all denials are fabricated, and if an accused is truly innocent, he can have no other defense other than denial.

The Court is unconvinced.

A categorical and consistent positive identification which is not accompanied by ill motive on the part of the eyewitness prevails over mere denial. Such denial, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law. It cannot be given a greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters.⁴⁴ (Citation omitted)

Here, both the accused-appellants were positively identified in open court by AAA,⁴⁵ with Kenny Joy as the one who recruited and accompanied her when she had to engage in sexual activities in exchange for money and Ludivico as the one who accompanied her when they proceeded to the hotel for the same kind of illicit transaction. They were likewise identified in open court by Agent Señora,⁴⁶ with Ludivico as the person who arranged for the prostitution activity at the hotel. Moreover, neither Ludivico nor Kenny Joy could ascribe any ill motive on the part of AAA or Agent Señora for testifying against them. Verily, the accused-appellants' unsubstantiated denial over the positive identification of the prosecution's witnesses cannot stand.

All told, the Court finds that the prosecution was able to establish the accused-appellants' guilt beyond reasonable doubt of the crime of Qualified Trafficking in Persons under Section 4(a), in relation to Section 6(a), of R.A. 9208. Thus, the Court finds no reason to overturn the judgment of conviction rendered by the RTC.

The penalty for the crime charged

The penalty for Qualified Trafficking in Persons is set forth in Section 10(c) of R.A. No. 9208, which reads:

Section 10. Penalties and Sanctions. - The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

x x x x

⁴⁴ *Eduardo Quimvel y Braga v. People of the Philippines*, G.R. No. 214497, April 18, 2017.

⁴⁵ CA rollo, p. 73.

⁴⁶ Id.

Meyer

(c) Any person found guilty of **qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and a fine of not less than Two million pesos (P2,000,000.00)** but not more than Five million pesos (P5,000,000.00)[.] (Emphasis Ours)

Notably, the CA affirmed the joint decision of the RTC, imposing the penalty of life imprisonment without the benefit of parole upon the accused-appellants, but modified the fine in as much as each of them should pay the fine of Php 2,000,000.00. In light of the above-quoted provision, the penalty and the fine imposed are proper.

However, pursuant to Administrative Matter No. 15-08-02-SC,⁴⁷ the Court deletes the phrase “without eligibility for parole,” as in cases where the death penalty is not warranted, the phrase “without eligibility for parole” does not need to describe and be affixed to the penalty; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole.

The Court likewise agrees that the award of moral damages in the amount of Php 500,000.00 and the reduction of exemplary damages to Php 100,000.00, with interest at the rate of six percent (6%) *per annum* until finality of this Decision, is proper as the same is consistent with prevailing jurisprudence.⁴⁸

Lastly, the CA also correctly ruled that the accused-appellants are jointly and severally liable to pay AAA the moral and exemplary damages, as specified above, pursuant to Article 110⁴⁹ of the Revised Penal Code.

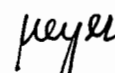
WHEREFORE, premises considered, the appeal is hereby **DISMISSED** for lack of merit. The Decision dated May 15, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08276, convicting accused-appellants Ludivico Patrimonio Bandojo, Jr. and Kenny Joy Villacorta Ileta of the crime of Qualified Human Trafficking, as defined and penalized under Section 4(a), in relation to Section 6(a), of Republic Act No. 9208, is hereby **AFFIRMED**.

Accordingly, the Court hereby imposes upon accused-appellants Ludivico Patrimonio Bandojo, Jr. and Kenny Joy Villacorta Ileta the following:

⁴⁷ *Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties*, August 4, 2015.

⁴⁸ *People of the Philippines v. Jehlson Aguirre y Arididon, Michael Araoít y Pacamara, Jefferson Paralejas y Pigtain and Jeffrey Roxas y Aragoncillo*, G.R. No. 219952, November 20, 2017; *People v. Hirang*, 803 Phil. 277 (2017).

⁴⁹ **Article 110.** *Several and subsidiary liability of principals, accomplices and accessories of a felony; Preference in payment.* - Notwithstanding the provisions of the next preceding article, the principals, accomplices, and accessories, each within their respective class, shall be liable severally (*in solidum*) among themselves for their quotas, and subsidiaries for those of the other persons liable.



1. To suffer the penalty of life imprisonment;
2. To each pay a fine of Php 2,000,000.00;
3. To jointly and severally pay the victim Php 500,000.00 as moral damages and Php 100,000.00 as exemplary damages; and
4. All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.


SO ORDERED.

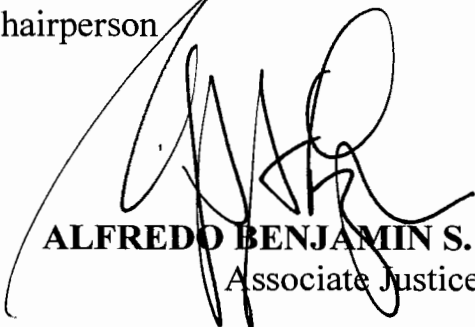

ANDRES B. REYES, JR.
Associate Justice

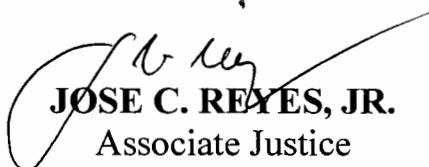
WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
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.



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. No. 296
The Judiciary Act of 1948,
as amended)

CERTIFIED TRUE COPY



MARIA LOURDES G. PERFECTO
Division Clerk of Court
Second Division

