



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 235660
Plaintiff-Appellee,

- versus -

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
 REYES, A., JR.,
 HERNANDO,
 INTING,
 DELOS SANTOS, JJ.

LUISA DAGUNO* y CODOG,
Accused-Appellant.

Promulgated:
 04 MAR 2020

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DECISION

INTING, J.:

The child is one of the most important assets of the nation. Ergo, every effort is exerted by the State to promote his welfare and enhance his opportunities for a useful and happy life.¹ Unfortunately, the child is also one of the most vulnerable victims of human trafficking. All those involved in the trafficking of persons—especially minors—must be punished. That the date alleged in the Information is different from the one eventually established during trial is immaterial. It will not save them from punishment when proof beyond reasonable doubt exists.

* Referred to as Daguino in some parts of the *rollo* and CA *rollo*.

¹ Article 1 of Presidential Decree No. 603, otherwise known as, "The Child And Youth Welfare Code."

The Case

On appeal is the Decision² dated August 29, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08609 which affirmed with modification the Judgment³ dated July 25, 2016 of Branch 9, Regional Trial Court (RTC), Manila in Criminal Case No. 11-285580 finding Luisa Daguno y Codog @ Jacky (accused-appellant) guilty beyond reasonable doubt of the offense of Qualified Trafficking in Persons, defined and penalized under Section 4(a) in relation to Section 6(a) of Republic Act No. (RA) 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003.”

The Facts

Accused-appellant was charged with the offense of Qualified Trafficking in Persons in the following Information:

“That on or about August 05, 2011, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and knowingly recruit, transport, transfer and deliver one [AAA],⁴ a minor, 15 years old, to an unknown person whose true name and real identity and present whereabouts are still unknown, for purposes of prostitution and sexual exploitation.

CONTRARY TO LAW.”⁵

When arraigned on March 12, 2012, accused-appellant pleaded not guilty to the offense charged.

² *Rollo*, pp. 2-12; penned by Associate Justice Ricardo R. Rosario with Associate Justices Ramon A. Cruz and Pablito A. Perez, concurring.

³ *CA rollo*, pp. 42-48; penned by Presiding Judge Jacqueline S. Martin-Balictar.

⁴ Pursuant to Section 7, Republic Act No. (RA) 9208, *viz.*:

SECTION 7. Confidentiality. — At any stage of the investigation, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the trafficked person and the accused. Towards this end, law enforcement officers, prosecutors and judges to whom the complaint has been referred may, whenever necessary to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial. *The name and personal circumstances of the trafficked person or of the accused, or any other information tending to establish their identities and such circumstances or information shall not be disclosed to the public.*

x x x (Italics supplied.)

⁵ *CA rollo*, p. 42.

Trial on the merits ensued.⁶

The prosecution alleged that around 11:00 p.m. of July 10, 2011, AAA, a 15-year-old girl who ran away from home was with her friends XXX and YYY in Sampaloc, Manila. Her friends informed her that accused-appellant, who they called “Nanay Jacky” was going to offer them to some men in España, Manila for a fee. When accused-appellant arrived, she asked AAA to go with them. She brought the three girls to España, Manila where they met a man who introduced himself as “Pressure.” After talking to the man, accused-appellant led the group to a nearby hotel and informed AAA that the man chose her.⁷ The man brought AAA to one of the hotel rooms, while accused-appellant waited at the lobby. AAA could not do anything as she was nervous and scared that she might be put in an embarrassing situation if she tried to escape. Inside the room, the man took off his clothes and asked AAA to do the same. The man and AAA had sexual intercourse. On their way back to Sampaloc, Manila, accused-appellant gave AAA ₱800.00.

On July 24, 2011, around 2:00 p.m., accused-appellant again met with AAA and XXX at Isetann Mall, in Recto, Manila. Accused-appellant talked to a man in the mall. After which, accused-appellant and the man brought the girls to Anthony Lodge along Recto Street. The man booked two separate rooms for AAA and XXX. The man had sexual intercourse with AAA in one of its rooms, while accused-appellant waited at the lobby of the lodge. Thereafter, AAA put on her clothes, while the man proceeded to the other room where XXX was billeted. Accused-appellant gave AAA ₱700.00, saying she deducted ₱100.00 as her fee for negotiating with the customer.⁸

On August 5, 2011, accused-appellant again chanced upon AAA and XXX at Isetann Mall in Recto, Manila. Accused-appellant told the girls that she will pimp them to a customer, but the girls refused. When accused-appellant insisted and AAA saw that the man was already about to pay, AAA called up her mother and asked for help. Around 4:00 p.m., AAA’s mother arrived at the mall together with some *barangay* officials

⁶ *Id.*

⁷ *Rollo*, p. 3.

⁸ *Id.* at 4

who arrested accused-appellant.⁹ The physical examination on AAA at the Philippine General Hospital showed the following findings:

“IMPRESSIONS: No evident injury at the time of examination but medical evaluation cannot exclude sexual abuse.”¹⁰

In defense, accused-appellant denied the accusations against her. Accused-appellant asserted that she was at Isetann Mall in Recto, Manila in the afternoon of August 5, 2011 because she was looking for her grandson. Her grandson’s classmate informed her earlier that afternoon that her grandson was in the mall. She became worried that he might be taken advantage by some homosexuals who frequent the place. She was at the fourth floor of the mall at around 5:00 p.m. when several men arrested her.¹¹

In the Judgment¹² dated July 25, 2016, the RTC convicted accused-appellant of the offense of Qualified Trafficking in Persons¹³ and meted out the penalty of life imprisonment, a fine of ₱2,000,000.00, and to pay moral damages in the amount of ₱75,000.00, and exemplary damages in the amount of ₱30,000.00.

On appeal, the CA in its Decision¹⁴ dated August 29, 2017, affirmed the RTC Judgment with modification as to the penalty. The CA increased the awards of moral and exemplary damages to ₱500,000.00 and ₱100,000.00, respectively, pursuant to the case of *People v. Hirang*.¹⁵ The dispositive portion of the Decision reads on this wise:

WHEREFORE, the appealed 25 July 2016 Judgment of Branch 9 of the Regional Trial Court of Manila, convicting accused-appellant LUISA DAGUNO y CODOG of Qualified Trafficking in Persons, and sentencing her to *life imprisonment* without eligibility for parole, and to pay a fine of Two Million Pesos (P2,000,000.00) is **AFFIRMED** with **MODIFICATION** that the awards of moral and exemplary damages are increased to Five Hundred Thousand Pesos (P500,000.00) and One Hundred Thousand Pesos (P100,000.00),

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 5.

¹² CA *rollo*, pp. 42-48.

¹³ Defined and penalized under Section 4(a) in relation to Section 6(a) of R.A. No. 9208.

¹⁴ *Rollo*, pp. 2-12.

¹⁵ 803 Phil. 277 (2017).

respectively, with interest at the rate of six percent (6%) *per annum* from the finality of this Decision until fully paid.

*SO ORDERED.*¹⁶

Undaunted, accused-appellant appealed to the Court.¹⁷

On January 31, 2018, the Court issued a Resolution¹⁸ requiring the parties to submit their respective Supplemental Briefs. However, both the People, through the Office of the Solicitor General,¹⁹ and accused-appellant,²⁰ manifested that they would no longer file Supplemental Briefs to expedite the resolution of this case and to avoid repetition of arguments.

Accused-appellant argues that the prosecution failed to prove her guilt beyond reasonable doubt and asserts that: (1) while the Information alleged that she recruited, transported, transferred and delivered AAA to an unknown person for purposes of prostitution on August 5, 2011, the evidence adduced by the prosecution during trial failed to establish that she committed the acts on said date;²¹ and (2) that the information failed to allege that she “provided” AAA to an unknown person for purposes of prostitution and sexual exploitation.²² She averred that she could not be convicted for such act without violating her right to be informed of the nature and cause of the accusations against her.

Ruling of the Court

The appeal lacks merit.

The mere fact that the date alleged in the Information is different from the one eventually established during the trial will not invalidate the Information. It is well-settled that in crimes where the date of commission is not a material element, as in this case, it is not necessary

¹⁶ *Rollo*, p. 12.

¹⁷ *CA rollo*, pp. 102-103.

¹⁸ *Rollo*, pp. 18-19.

¹⁹ *Id.* at 21-22.

²⁰ *Id.* at 29-31.

²¹ *CA rollo*, pp. 33, 36.

²² *Id.* at 36.

to allege such date with absolute specificity or certainty in the information.²³ The Rules of Court merely requires, for the sake of informing an accused, that the date of commission be approximated.²⁴ Since the date of commission of the offense is not required to be alleged with such precision and accuracy, the allegation in an Information of a date of commission different from the one eventually established during the trial is not fatal to prosecution.²⁵ Instead, the erroneous allegation in the information is just deemed supplanted by the evidence presented during the trial or may even be corrected by a formal amendment of the information.²⁶

The only instance where the variance in the date of commission of the offense as alleged in the information and as established in evidence becomes fatal is when the discrepancy is so great that it induces the perception that the information and the evidence are no longer pertaining to one and the same offense.²⁷

In the instant case, the date alleged in the Information is August 5, 2011, while the prosecution's evidence established that the offense was committed on July 10 and 24, 2011. The disparity in the date is not so great as to be considered a fatal error on the part of the prosecution, especially since the date of the commission is not an element of the crime charged. Moreover, July 10 and July 24, 2011, the dates established during the trial, not being so far removed from August 5, 2011, are still reasonably encompassed by the phrase "on or about August 5, 2011." At any rate, the erroneous allegation in the Information was supplanted by the evidence presented by the prosecution,

²³ *People v. Delfin*, 738 Phil. 811, 817 (2014).

²⁴ Sections 6 and 11, Rule 110, Rules of Court, viz.:

SEC. 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 given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

x x x x

SEC. 11. *Date of commission of the offense.* — It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.

²⁵ *Rocaberte v. People*, G.R. No. 72994, January 23, 1991, 193 SCRA 152, 156.

²⁶ *People v. Delfin*, *supra* note 23.

²⁷ *Id.*

particularly the testimony of AAA that on July 10 and July 24, 2011, accused-appellant recruited, transported, delivered her, and had her engaged in sexual intercourse with an unknown person in exchange for money. Further, accused-appellant did not object to the presentation of such evidence during trial. There is likewise no showing that she was caught unaware by the introduction of the evidence or that she was deprived of the right to be informed of the nature and cause of the accusations against her.

Accused-appellant also laments that the word “provide” as stated in RA 9208 is not alleged in the Information. She contends that this deprived her of her right to be informed of the nature and cause of the accusation against her.

The contention lacks merit.

Although the word “provide” is not alleged in the Information, the word “deliver,” which means “the giving or yielding possession or control of something to another,”²⁸ a word synonymous to “provide” was used in the Information.

The rule is that an Information is valid as long as it distinctly states the statutory designation of the offense and the acts or omissions constitutive thereof.²⁹ It is not necessary to follow the language of the statute in the information.³⁰

In this case, accused-appellant was charged with and convicted of Qualified Trafficking in Persons under Section 4(a) in relation to Section 6(a) of RA 9208, viz.:

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

²⁸ Black's Law Dictionary, 8th ed., p.461.

²⁹ *People v. Alba*, 365 Phil. 365, 382 (1999), citing *People v. Dimapilis*, 360 Phil. 466, 478 (1998) and *Sta. Rita v. CA*, 317 Phil. 578, 585 (1995).

³⁰ *Flores v. Hon. Layosa*, 479 Phil. 1020, 1036 (2004).

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

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

The law defines the offense of Trafficking in Persons as “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.”³¹ It further states that “[t]he 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.”³² Furthermore, when the trafficked person is a child the crime of Trafficking in Persons is qualified.³³

The elements of Trafficking in Persons are as follows: (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; (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

³¹ Section 3(a), RA 9208.

³² *Id.*

³³ Section 6(a), RA 9208.

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.³⁴

As correctly ruled by the RTC and affirmed by the CA, the existence of the elements of Qualified Trafficking in Persons was sufficiently established by the prosecution beyond reasonable doubt, to wit: (1) that AAA was a minor when the offense against her was committed; (2) that accused-appellant introduced AAA to different customers on several occasions to engage in sexual intercourse; and (3) that accused-appellant received money in exchange for the sexual exploitation of AAA.

The offense is Qualified Trafficking in Persons because AAA was a minor. The means used to commit the offense becomes immaterial. At any rate, it may not be denied that accused-appellant took advantage of the vulnerability of AAA who was a minor.

Moreover, the Court finds no merit in accused-appellant's plea for acquittal on the ground that the acts she allegedly committed on August 5, 2011 merely amounted to an attempt to commit the offense as it was aborted by her subsequent arrest; and that such attempt to commit the offense was not punishable under RA 9208 and became so punishable only upon the amendment introduced by RA 10364³⁵ on February 6, 2013.

As discussed, the allegations in the Information filed against accused-appellant clearly refer to the consummated acts of trafficking in persons she committed on July 10 and July 24, 2011. However, as correctly held by the CA, accused-appellant cannot be convicted of the two counts of the offense proved, as the Information charges only one offense.

Also worthy of note is that the positive testimony of AAA prevails over the negative and self-serving statements of accused-appellant. Accused-appellant offers her defense of denial without even attempting

³⁴ *People v. Casio*, 749 Phil. 458, 472-473 (2014), citing Section 3(a), RA 9208.

³⁵ Expanded Anti-Trafficking in Persons Act of 2012.

to corroborate it with supporting evidence. The defense of simple denial is weak, the same being easy to fabricate just like the defense of alibi.³⁶


Anent the proper penalty to be imposed on accused-appellant, Section 10(c) of RA 9208 states that persons found guilty of Qualified Trafficking shall suffer the penalty of life imprisonment and a fine of not less than ₱2,000,000.00, but not more than ₱5,000,000.00. Thus, the courts *a quo* correctly sentenced accused-appellant to suffer the penalty of life imprisonment and to pay a fine of ₱2,000,000.00.

Finally, the courts *a quo* correctly ordered accused-appellant to pay AAA the amounts of ₱500,000.00 as moral damages and ₱100,000.00 as exemplary damages, with interest at the rate of 6% *per annum* from finality of judgment until full payment in line with prevailing jurisprudence.³⁷

In light of the foregoing, the Court finds no reason to deviate from the factual findings of the RTC, as affirmed by the CA, as there is no indication that it overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. As such, accused-appellant's conviction for Qualified Trafficking in Persons must be upheld.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated August 29, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08609 which affirmed with modification the Judgment dated July 25, 2016 of Branch 9, Regional Trial Court, Manila in Criminal Case No. 11-285580 is hereby **AFFIRMED** *in toto*.


SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

³⁶ See *People v. Berja*, 331 Phil. 514, 528 (1996).

³⁷ See *People v. Hirang*, 803 Phil. 277 (2017).

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
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.


ESTELA M. PERLAS-BERNABE
Acting Chief Justice

