



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**    **G.R. No. 262749**  
 Plaintiff-appellee,

Present:

CAGUIOA, J., *Chairperson,*  
 INTING,  
 GAERLAN,  
 DIMAAMPAO, and  
 SINGH, JJ.

- versus -

Promulgated:

**JJJ,\***

Accused-appellant.

**May 20, 2024**

*MistOC Bath*

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**D E C I S I O N**

**INTING, J.:**

Before the Court is an appeal<sup>1</sup> which assails the Decision<sup>2</sup> dated June 21, 2021, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12991. The CA Decision affirmed with modification as to damages the

\* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, “An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes;” RA 9262, “An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and For Other Purposes;” Section 40 of Administrative Matter No. 04-10-11-SC, known as the “Rule on Violence against Women and Their Children,” effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

<sup>1</sup> See Notice of Appeal dated July 21, 2021, *rollo*, pp. 3–4.

<sup>2</sup> *Id.* at 8–22. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Ramon R. Garcia and Angelene Mary W. Quimpo-Sale, Seventh Division, Court of Appeals, Manila.

Decision<sup>3</sup> dated April 30, 2019, of Branch ■, Regional Trial Court<sup>4</sup> (RTC), ■, Laguna in Criminal Case Nos. SC-22926, SC-22927, SC-22928, SC-22929, SC-22930, and SC-22931.

In Criminal Case Nos. SC-22927, SC-22930, and SC-22931, the RTC found JJJ (accused-appellant) guilty beyond reasonable doubt of Qualified Trafficking in Persons, defined and penalized under Republic Act No. (RA) 9208,<sup>5</sup> as amended by RA 10364.<sup>6</sup>

In Criminal Case Nos. SC-22926, SC-22928, and SC-22929, the RTC dismissed the charges of Child Pornography, defined and punished under RA 9775,<sup>7</sup> in relation to RA 10175,<sup>8</sup> against the accused-appellant.

### *The Antecedents*

In three Informations, accused-appellant was charged with Child Pornography under Section 4(a)<sup>9</sup> of RA 9775, in relation to RA 10175, committed as follows:

Criminal Case No. SC-22926  
For: Violation of RA 9775 in relation to RA 10175

That on or about January 2014 and on dates subsequent thereto, in ■, Laguna and within the jurisdiction of this Honorable Court, the above-named accused [JJJ], did then and there, willfully, unlawfully and knowingly use, persuade, induce or coerce [AAA], then 5 years old, to perform in the creation or production of child pornography through the use [of] a computer system, to the damage and prejudice of said [AAA].

CONTRARY TO LAW.<sup>10</sup> (Emphasis omitted)

<sup>3</sup> *Id.* at 24–42. Penned by Presiding Judge Suwerte L. Ofrecio.

<sup>4</sup> Designated as Family Court.

<sup>5</sup> “Anti-Trafficking in Persons Act of 2003,” approved on May 26, 2003.

<sup>6</sup> “Expanded Anti-Trafficking in Persons Act of 2012,” approved on February 6, 2013.

<sup>7</sup> “Anti-Child Pornography Act of 2009,” approved on November 17, 2009.

<sup>8</sup> “Cybercrime Prevention Act of 2012,” approved on September 12, 2012.

<sup>9</sup> Section 4(a) of Republic Act No. 9775 provides:

Section 4. *Unlawful or Prohibited Acts.* — It shall be unlawful for any person:

(a) To hire, employ, use, persuade, induce or coerce a child to perform in the creation or production of any form of child pornography[.]

<sup>10</sup> Records (Criminal Case No. SC-22926), p. 1. Signed by Senior Assistant State Prosecutor Anna Noreen T. Devanadera and approved by Senior Deputy State Prosecutor Richard Anthony D. Fadullon.

Criminal Case No. SC-22928  
For: Violation of RA 9775 in relation to RA 10175

That on or about June 2015 and on dates subsequent thereto, in [REDACTED], Laguna and within the jurisdiction of this Honorable Court, the above-named accused [JJJ], did then and there, willfully, unlawfully and knowingly use, persuade, induce or coerce [BBB], then 9 years old, to perform in the creation or production of child pornography through the use [of] a computer system, to the damage and prejudice of said [BBB].

CONTRARY TO LAW.<sup>11</sup> (Emphasis omitted)

Criminal Case No. SC-22929  
For: Violation of RA 9775 in relation to RA 10175

That on or about January 2017 and on dates subsequent thereto, in [REDACTED], Laguna and within the jurisdiction of this Honorable Court, the above-named accused [JJJ], did then and there, willfully, unlawfully and knowingly use, persuade, induce or coerce [CCC], then 6 years old, to perform in the creation or production of child pornography through the use [of] a computer system, to the damage and prejudice of said [CCC].

CONTRARY TO LAW.<sup>12</sup> (Emphasis omitted)

In another three (3) Informations, accused-appellant was charged with violation of Section 4(a) of RA 9208, as amended by RA 10364, in relation to RA 10175. The accusatory portion of the Informations read:

Criminal Case No. SC-22927  
For: Violation of RA 9208, as amended by RA 10364, in  
relation to RA 10175

That on or about June 2015 and on dates subsequent thereto, in [REDACTED], Laguna and within the jurisdiction of this Honorable Court, the above-named accused [JJJ], did then and there, willfully, unlawfully and knowingly obtained, provided, offered and/or maintained, with the use of information and communication technologies, [BBB], then 9 years old, 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 said minor, or the giving or receiving of payments or benefits to achieve the consent of the person having control over another person for the purpose of acquiring her to engage in prostitution, pornography or sexual exploitation, to the damage and prejudice of said [BBB].

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<sup>11</sup> Records (Criminal Case No. SC-22928), p. 1.

<sup>12</sup> Records (Criminal Case No. SC-22929), p. 1.

That the accused is an ascendant, guardian or a person who exercises authority over the victim being the victim's step grandmother[.]

CONTRARY TO LAW.<sup>13</sup> (Emphasis omitted)

Criminal Case No. SC-22930

For: Violation of RA 9208, as amended by RA 10364, in relation to RA 10175

That on or about January 2017 and on dates subsequent thereto, in [REDACTED], Laguna and within the jurisdiction of this Honorable Court, the above-named accused [JJJ], did then and there, willfully, unlawfully and knowingly obtained, provided, offered and/or maintained, with the use of information and communication technologies, [CCC], then 6 years old, 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 said minor, or the giving or receiving of payments or benefits to achieve the consent of the person having control over another person for the purpose of acquiring her [sic] to engage in prostitution, pornography or sexual exploitation, to the damage and prejudice of said [CCC].

That the accused is an ascendant, guardian or a person who exercises authority over the victim being the victim's step grandmother[.]

CONTRARY TO LAW.<sup>14</sup> (Emphasis omitted)

Criminal Case No. SC-22931

For: Violation of RA 9208, as amended by RA 10364, in relation to RA 10175

That on or about January 2014 and on dates subsequent thereto, in [REDACTED], Laguna and within the jurisdiction of this Honorable Court, the above-named accused [JJJ], did then and there, willfully, unlawfully and knowingly obtained, provided, offered and/or maintained, with the use of information and communication technologies, [AAA], then 5 years old, 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 said minor, or the giving or receiving of payments or benefits to achieve the consent of the person having control over another person for the purpose of acquiring her to engage in prostitution, pornography or sexual exploitation, to the damage and prejudice of said [AAA].

That the accused is an ascendant, guardian or a person who exercises authority over the victim being the victim's step grandmother[.]

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<sup>13</sup> Records (Criminal Case No. SC-22927), p. 1.

<sup>14</sup> Records (Criminal Case No. SC-22930), p. 1.

CONTRARY TO LAW.<sup>15</sup> (Emphasis omitted)

Accused-appellant is the step-grandmother of the minor children AAA, BBB, and CCC.

Meanwhile, in Criminal Case No. SC-22932,<sup>16</sup> KKK, the mother of the victims BBB and AAA, was charged with violation of RA 9775, in relation to RA 10175, for Child Pornography.

Upon arraignment, accused-appellant and accused KKK entered their respective pleas of “Not Guilty” to the charges filed against them.<sup>17</sup>

Trial on the merits ensued.

*Version of the Prosecution*

The prosecution presented the following as its witnesses: Police Inspector Clotheldee A. Pacuyan (P/Insp. Pacuyan); Police Officer III Lalaine M. Paglinawan (PO3 Paglinawan); and the three private complainants, namely: BBB, AAA, and CCC.<sup>18</sup>

P/Insp. Pacuyan and PO3 Paglinawan, the officers assigned at the Women and Children Protection Center (WCPC) Luzon Field Unit (LFU), Camp Crame, Quezon City, testified that the Australian Federal Police (AFP) referred the case of accused-appellant to the WCPC through a Letter<sup>19</sup> dated September 20, 2018. The letter contained information on accused-appellant’s online activities involving child pornography. The AFP conveyed to the WCPC that an Australian named Andrew James Calvert (Calvert) was found in possession of pornographic materials that depicted a naked pre-pubescent girl in various sexual positions which exposed her breasts and genitals; Calvert received the pornographic materials online from the accused-appellant.<sup>20</sup> The AFP also attached the online conversations<sup>21</sup> between Calvert and accused-appellant on making the girl perform sexual acts for a fee.<sup>22</sup>

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<sup>15</sup> Records (Criminal Case No. SC-22931), p. 1.

<sup>16</sup> *Rollo*, p. 26.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> *Id.*

<sup>19</sup> Records (Criminal Case No. SC-22926), p. 280.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 281–293.

<sup>22</sup> *Id.* at 280.

Acting on the information, the WCPC conducted an investigation on the online activities of accused-appellant. PO3 Paglinawan went undercover as a male foreigner and *poseur*-customer named *Curt Alexis*. PO3 Paglinawan sent accused-appellant a friend request on her Facebook account. When they got connected, PO3 Paglinawan sent accused-appellant a message on October 3, 2018. She told accused-appellant that a friend referred her and her “nice stuff” to “him”. Accused-appellant then asked PO3 Paglinawan if “he” had WeChat or WhatsApp as she could not talk on Facebook Messenger. Thus, they agreed to use Skype. Accused-appellant gave her Skype account under the username, “Cutie[BBB].”<sup>23</sup>

The conversation between accused-appellant and PO3 Paglinawan continued via Facebook Messenger. Accused-appellant then began asking for money and informed PO3 Paglinawan that she can make “him” happy. They agreed on a mode of payment through coins.ph, as well as the amount to be paid. Thereafter, accused-appellant sent naked photos of a young girl (later identified as BBB). In turn, PO3 Paglinawan sent PHP 500.00 through coins.ph to accused-appellant that prompted the latter to send another four naked pictures of BBB in a sexual position which exposed her breasts and genitals. As agreed upon, PO3 Paglinawan sent another PHP 500.00.<sup>24</sup>

For the purpose of validating and conducting surveillance on the address given by accused-appellant, PO3 Paglinawan offered to buy BBB gifts like a dress or a doll. However, accused-appellant told PO3 Paglinawan that BBB asked for a cellular phone instead. When PO3 Paglinawan agreed, accused-appellant gave her cellphone number and address in [REDACTED], [REDACTED], Laguna. Accused-appellant also sent photographs of her identification cards.<sup>25</sup>

On October 5, 2018, accused-appellant and PO3 Paglinawan went on a video call via Skype where PO3 Paglinawan saw a close-up video of accused-appellant and BBB.<sup>26</sup> Accused-appellant told PO3 Paglinawan that they will have a “show” on October 8, 2018, at 5:00 a.m., before BBB would go to school. The next day, the WCPC LFU verified the address of accused-appellant. Accordingly, another police officer disguised himself as a Lazada courier and handed the cellular phone to accused-appellant. The latter confirmed the delivery when she sent PO3

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<sup>23</sup> *Rollo*, p. 12.

<sup>24</sup> *Id.* at 12 and 28.

<sup>25</sup> See Transcript of Facebook Engagement, records (Criminal Case No. SC-22926), pp. 81–82 and 87–90.

<sup>26</sup> See Affidavit of Online Undercover, *id.* at 205.

Paglinawan pictures of her and BBB showing that they received the cellular phone.<sup>27</sup>

Upon verification of accused-appellant's address, PO3 Paglinawan informed Police Senior Superintendent Gemma C. Vinluan (PS/Supt. Vinluan), Chief of WCPC LFU, regarding the development of their investigation conducted against accused-appellant. PS/Supt. Vinluan approved the recommended courses of action to be taken – the simultaneous entrapment operation, and rescue.<sup>28</sup>

On October 8, 2018, the date of the agreed “show”, and following a pre-operational briefing, the joint elements of WCPC LFU and the Laguna Provincial Police Office proceeded to the address of accused-appellant for the entrapment operation. The teams strategically positioned themselves while waiting for the go signal of PO3 Paglinawan. At around 5:10 a.m., accused-appellant started chatting with PO3 Paglinawan on Facebook Messenger and discussed with her the cost of the show. When PO3 Paglinawan asked for an overview of the “show”, accused-appellant informed her that BBB will show her naked body and play with her vagina; accused-appellant even offered to get naked in front of the camera as well.<sup>29</sup>

The Skype video call took about 10 minutes and 30 seconds. During the video call, BBB, with accused-appellant by her side, undressed, posed, and played with her vagina in front of the camera. While the show was ongoing, PO3 Paglinawan gave her go signal. Thereupon, the team entered accused-appellant's house. Thereat, P/Insp. Pacuyan found accused-appellant, BBB, and CCC inside a room.<sup>30</sup>

During the arrest of accused-appellant, KKK, the mother of BBB and AAA, came to the scene and demanded the release of BBB. P/Insp. Pacuyan also arrested KKK as she admitted to the media personnel from GMA 7 that she had knowledge of the illegal activities of accused-appellant committed against her children.<sup>31</sup>

BBB testified that accused-appellant is her step-grandmother and that she began performing shows for accused-appellant's foreign customers when she was in Grade 5. The “shows” she performed meant that she had to remove all her clothes and bend over or spread her legs to

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<sup>27</sup> *Rollo*, pp. 12–13 and 28.

<sup>28</sup> *Id.* at 28.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 13 and 28.

<sup>31</sup> *Id.* at 27.

show her vagina in front of the camera while the foreigners were watching. Accused-appellant would make her do shows two to three times in a day, and in exchange, accused-appellant would give her money ranging from PHP 50.00 to PHP 100.00.<sup>32</sup>

During trial, AAA stated that she also did “shows” for the foreign customers of accused-appellant when she was in kindergarten. When asked about the definition of the “show,” she explained that she had to undress and display her private parts in front of a camera. She further alleged that her step-grandmother (herein accused-appellant), would instruct her to hold an orange object shaped like a penis and put it inside her mouth while a foreigner watched.<sup>33</sup>

As for CCC, he alleged that he also stripped in front of the camera while a foreigner was watching. He said that he did not like to remove his clothes, but accused-appellant would force him. He further asserted that his step-grandmother (herein accused-appellant) gave him PHP 40.00 every time he undressed in front of the computer twice a week. Sometimes, accused-appellant would order him to go out of the room, or turn his back to them while BBB and accused-appellant undressed in front of the computer as a naked foreigner watched them.<sup>34</sup>

#### *Version of the Defense*

Accused-appellant narrated that on October 8, 2018, she woke up at around 5:00 a.m. when she heard a commotion outside her house. When she opened the door, she was surprised to see several police officers; they were looking for her. In her panic, she tried to push the door, but the police officers were able to break in.<sup>35</sup>

She admitted that when the police officers arrived, she was speaking with a certain *Curt Alexis*. However, she denied instructing BBB to do a live show, to undress, and to perform lascivious conduct in front of the camera. She argued that it was *Curt Alexis* who instructed BBB to do such acts, yet she admitted that she was beside BBB that time.<sup>36</sup>

In the course of the trial, accused-appellant admitted that she used BBB to do a live show for five (5) times already in exchange for

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<sup>32</sup> *Id.* at 29.

<sup>33</sup> *Id.* at 30.

<sup>34</sup> *Id.* at 29–30.

<sup>35</sup> *Id.* at 33.

<sup>36</sup> *Id.* at 15 and 33.

PHP 2,000.00 per show. She received payment through Cebuana Lhuillier. However, she denied that she made AAA and CCC do shows.<sup>37</sup>

*The Ruling of the RTC*

In the Decision<sup>38</sup> dated April 30, 2019, the RTC found accused-appellant guilty beyond reasonable doubt of Qualified Trafficking in Persons in Criminal Case Nos. SC-22927, SC-22930, and SC-22931. It gave credence to the testimonies of the victims BBB, AAA, and CCC. It found them to be candid, straightforward, convincing, and consistent with the documentary evidence adduced by the prosecution.<sup>39</sup> Likewise, it sustained the legality of the entrapment operation and ruled that the prosecution established the elements of Qualified Trafficking in Persons through the testimonies and evidence gathered by the police officers involved in the operation.<sup>40</sup>

However, in Criminal Case Nos. SC-22926, SC-22928, and SC-22929, the RTC dismissed the charges of Child Pornography, defined and penalized under RA 9775, in relation to RA 10175, against accused-appellant as it found that the charges of Child Pornography are necessarily included in the charges for Qualified Trafficking in Persons.<sup>41</sup>

On the part of accused KKK, in Criminal Case No. SC-22932, the RTC acquitted her for failure of the prosecution to prove her guilt beyond reasonable doubt.<sup>42</sup>

The *fallo* of the RTC Decision reads as follows:

*WHEREFORE*, premises considered, the Court finds accused [JJJ] *GUILTY* beyond reasonable doubt for three (3) counts of the crime of Qualified Trafficking in Persons as defined and penalized under RA[9208 as further amended by RA 10364. Accordingly, she is meted to suffer [sic] the penalty of LIFE IMPRISONMENT and to pay a fine of [PHP] 2,000,000.00 for each count without eligibility for parole and to pay each victim the amount of [PHP] 50,000.00 as moral damages and [PHP] 30,000.00 as exemplary damages. The other charges such as Violation of the Anti-Child Pornography Act filed against her are ordered dismissed for being superfluous as they are deemed subsumed under the crimes for which she was convicted of.

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 24-42.

<sup>39</sup> *Id.* at 35.

<sup>40</sup> *Id.* at 39.

<sup>41</sup> *Id.* at 40-41.

<sup>42</sup> *Id.* at 42.

However, for failure of the prosecution to prove the guilt of accused [KKK], the Court hereby ACQUITS her and her immediate release from detention is hereby ordered unless there exists some other lawful cause/s for her continued detention.

SO ORDERED.<sup>43</sup> (Emphasis omitted; italics in the original)

The RTC gave credence to the testimony of BBB, AAA, and CCC. It found them to be candid, straightforward, convincing, and consistent with the documentary evidence adduced by the prosecution.<sup>44</sup> Likewise, it sustained the legality of the entrapment operation and ruled that the prosecution established the elements of Qualified Trafficking in Persons through the testimony and evidence gathered by the police officers involved in the operation.<sup>45</sup>

Aggrieved, accused-appellant appealed to the CA.

#### *The Ruling of the CA*

In the assailed Decision,<sup>46</sup> the CA affirmed accused-appellant's conviction for Qualified Trafficking in Persons with modification as to the award of damages. The CA decreed as follows:

WHEREFORE, the appeal is DENIED. The Decision of the Regional Trial Court of ██████, Laguna, Branch █ dated April 30, 2019 in Criminal Case Nos. SC-22927, SC-22930 and SC-22931, are AFFIRMED WITH MODIFICATION. Accused-appellant is ORDERED to pay each private complainant the amount of [PHP] 500,000.00 as moral damages and [PHP] 100,000.00 as exemplary damages. The Decision is RETAINED in all other respects.

SO ORDERED.<sup>47</sup> (Emphasis omitted)

The CA found no reason to disturb the factual findings of the RTC and held that the prosecution established all the elements of the charge and prove them in court.<sup>48</sup> As to the RTC's dismissal of the charges of Child Pornography, the CA applied the rule on double jeopardy to sustain the RTC's ruling.<sup>49</sup>

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<sup>43</sup> *Id.* at 42.

<sup>44</sup> *Id.* at 35.

<sup>45</sup> *Id.* at 39.

<sup>46</sup> *Id.* at 8–22.

<sup>47</sup> *Id.* at 21–22.

<sup>48</sup> *Id.* at 18–19.

<sup>49</sup> *Id.* at 21.

Hence, accused-appellant filed the instant appeal.<sup>50</sup>

Accused-appellant questions her conviction for Qualified Trafficking in Persons under RA 9208, as amended by RA 10364. In her Brief for the Accused-Appellant,<sup>51</sup> she reiterated that the pieces of evidence obtained and presented by the prosecution were violative of RA 10175 and should not be admitted.<sup>52</sup> She argued that the prosecution failed to prove the incidents of Qualified Trafficking in Persons as there were glaring discrepancies between the dates written in the Informations and the actual dates of the entrapment operation.<sup>53</sup>

On the other hand, the People of the Philippines (plaintiff-appellee), through the Office of the Solicitor General,<sup>54</sup> sought the modification of the CA Decision to include a finding that accused-appellant was also guilty of Child Pornography under RA 9775, in relation to RA 10175.<sup>55</sup>

#### *Issues*

The issues to be resolved by the Court are: (a) whether the CA was correct in affirming the accused-appellant's conviction for Qualified Trafficking of Persons; and (b) whether accused-appellant is also guilty beyond reasonable doubt of Child Pornography.

#### *The Ruling of the Court*

The appeal is dismissed.

Well settled is the rule that an appeal in a criminal case opens the entire case for review on any question including one not raised by the parties.<sup>56</sup> As such, an "appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."<sup>57</sup>

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<sup>50</sup> *Id.* at 3–4.

<sup>51</sup> *CA rollo*, pp. 161–183.

<sup>52</sup> *Id.* at 174–177.

<sup>53</sup> *Id.* at 171–174.

<sup>54</sup> See Brief for the Plaintiff-Appellee, *id.* at 111–142.

<sup>55</sup> *Id.* at 129–133.

<sup>56</sup> *People v. Dacanay*, 798 Phil. 132, 147 (2016), citing *People v. Rivera*, 613 Phil. 660, 668 (2009).

<sup>57</sup> *People v. Alon-Alon*, 866 Phil. 802, 808 (2019), citing *Cunanan v. People*, 843 Phil. 96, 106 (2018).

With the foregoing, the Court affirms accused-appellant's conviction of Qualified Human Trafficking under RA 9208, as amended by RA 10364, and sustains the dismissal of the charges for Child Pornography under RA 9775, in relation to RA 10175, on the ground of double jeopardy.

However, Child Pornography is an offense separate and distinct from Qualified Human Trafficking and is not subsumed in the latter offense. The Court will elucidate hereunder for the guidance of the bench and bar.

*The CA is correct in affirming accused-appellant's conviction of Qualified Trafficking in Persons under RA 9208, as amended by RA 10364*

Accused-appellant was charged with three (3) counts of Qualified Trafficking in Persons penalized under Section 4(a) RA 9208, as amended by RA 10364. Section 3(a) of RA 9208, as amended by RA 10364, defines Trafficking in Persons as follows:

SEC. 3. *Definition of Terms.* — As used in this Act:

- (a) *Trafficking in Persons* — refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, 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, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.

On such score, Section 4(a) of the same law provides:

SEC. 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, obtain, hire, provide, offer, transport, transfer, maintain, harbor, 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, or sexual exploitation[.]

In light of the foregoing, the elements of Trafficking in Persons are: (1) the *act* of recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders; (2) the *means* used include 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; and (3) the *purpose* of trafficking includes 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.<sup>58</sup>

Sexual exploitation, on the other hand, is defined under Section 3(h) of the same law as follows:

- (h) *Sexual Exploitation* — refers to participation by a person in prostitution, pornography or the production of pornography, in exchange for money, profit or any other consideration or where the participation is caused or facilitated by any means of intimidation or threat, use of force, or other forms of coercion, abduction, fraud, deception, debt bondage, abuse of power or of position or of legal process, taking advantage of the vulnerability of the person, or giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or in sexual intercourse or lascivious conduct caused or facilitated by any means as provided in this Act.

In addition, Section 6 of RA 9208 provides that the crime is *qualified* if the trafficked person is a child,<sup>59</sup> or 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.<sup>60</sup>

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<sup>58</sup> *Brozoto v. People*, G.R. No. 233420, April 28, 2021, citing *People v. Maycabalong*, 867 Phil. 486, 494 (2019).

<sup>59</sup> Republic Act No. 9208 (2003), sec. 6(a).

<sup>60</sup> Republic Act No. 9208 (2003), sec. 3(b), as amended by, Republic Act No. 10364 (2013), sec. 3.

In the case, the elements of Qualified Trafficking in Persons were proven beyond reasonable doubt by the prosecution. As correctly ruled by the RTC and affirmed by the CA, the prosecution was able to establish the existence of the elements of Qualified Trafficking in Persons through the documentary evidence gathered from the entrapment operation and the testimonies of the child-victims.

Here, the minority of the child-victims and their relationship with accused-appellant, being their step-grandmother, were admitted by the defense.<sup>61</sup> As provided in the Information, BBB was then 9 years old, AAA was then 5 years old, and CCC was then 6 years old, when accused-appellant took advantage of their vulnerability by giving them school allowance for the purpose of sexual exploitation.<sup>62</sup>

As to BBB, the prosecution relied on the entrapment operation conducted by the WCPC-LFU which was corroborated by her *Sinumpaang Salaysay*<sup>63</sup> and testimony in court.<sup>64</sup> In fact, significantly, accused-appellant admitted in open court that: (1) she had conversations with foreigners, including the foreign *poseur*-customer, *Curt Alexis*; and (2) she sent photographs of BBB in compromising positions, and conducted shows portraying lascivious conduct for the benefit of foreigners in exchange for a fee.<sup>65</sup>

In the cases of AAA and CCC, their testimonies likewise proved that accused-appellant obtained and maintained them for the purpose of sexual exploitation.<sup>66</sup>

As enunciated in various jurisprudence, findings of facts and assessment of credibility of witness are matters best left to the trial courts because of its unique opportunity to observe the demeanor of the witness and thus, having the best position to discern whether they were telling the truth.<sup>67</sup> As a rule, the “trial judge’s assessment of the witnesses’ testimonies and findings of fact are accorded great respect on appeal.”<sup>68</sup>

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<sup>61</sup> *Rollo*, pp. 26 and 35.

<sup>62</sup> *Id.* at 24–26.

<sup>63</sup> Records (Criminal Case No. SC-22926), pp. 25–28.

<sup>64</sup> *Rollo*, pp. 18 and 29.

<sup>65</sup> *Id.* at 18 and 33.

<sup>66</sup> *Id.* at 18 and 29–30.

<sup>67</sup> *People v. XXX*, G.R. No. 231386, July 13, 2022; *People v. Elimancil*, 846 Phil. 186, 195–196 (2019); *People v. Traigo*, 734 Phil. 726, 729 (2014); *People v. Mercado*, 664 Phil. 747, 752 (2011); and *People v. Castel*, 593 Phil. 288, 315 (2008).

<sup>68</sup> *People v. Tuyor*, 887 Phil. 944, 958 (2020), citing *People v. Labraque*, 818 Phil. 204, 211 (2017), further citing *People v. Alberca*, 810 Phil. 896, 906 (2017).

Thus, “[i]n the absence of any substantial reason to justify the reversal of the trial court’s assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound” by the findings of the trial court.<sup>69</sup> Significantly, the rule is even more stringently applied if the appellate court concurred with the trial court.<sup>70</sup>

In the case, the Court finds no cogent reason to deviate from the findings and conclusions of the RTC, as affirmed by the CA. Both AAA and CCC were able to narrate a cohesive and detailed account of the times that accused-appellant used them in her trafficking activities.<sup>71</sup>

In particular, AAA testified that she was in Kindergarten to Grade 1 when accused-appellant made her do shows two to three times a day in front of the laptop for foreign customers. She also recalled that accused-appellant would give her PHP 20.00 as her *baon* each time she would do a show.<sup>72</sup> As for CCC, he testified that accused-appellant would force him to undress in front of the laptop while a foreigner watched in exchange for PHP 40.00.<sup>73</sup>

From the respective testimonies of AAA and CCC, it was established that accused-appellant sexually exploited them by having them perform lascivious acts to please foreign customers over the internet and for economic gain.

*The RTC and the CA erred in ruling that the charges for the crime of Child Pornography under Section 4(a) of RA 9775, in relation to RA 10175, against the accused-appellant should be dismissed*

The RTC dismissed the charges of Child Pornography against accused-appellant. According to the RTC, the charges were superfluous as they were already subsumed in the offense of Qualified Trafficking in Persons.<sup>74</sup> The CA, on the other hand, held that to take cognizance of the issue of whether accused-appellant is guilty beyond reasonable doubt of

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<sup>69</sup> *People v. XXX*, 859 Phil. 696, 705 (2019).

<sup>70</sup> *Id.*, citing *People v. Agudo*, 810 Phil. 918, 928 (2017).

<sup>71</sup> *Rollo*, pp. 18 and 36–38.

<sup>72</sup> *Id.* at 30 and 36–37.

<sup>73</sup> *Id.* at 29–30 and 37–38.

<sup>74</sup> *Id.* at 40–41.

Child Pornography would warrant the application of double jeopardy against accused-appellant.<sup>75</sup>

The Court differs as far as the declaration of the RTC is concerned that the charges of Child Pornography in the case were superfluous as they were already subsumed in the offense of Qualified Trafficking in Persons.

The charges of Child Pornography as embodied in the Informations shall stand alone and cannot be joined in the charges for Qualified Trafficking in Persons as these are two different offenses defined and penalized under different laws passed by Congress.

As one of the signatories in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime,<sup>76</sup> the Congress enacted RA 9208 as the enabling law of the country's commitment to the protocol.<sup>77</sup> In 2012, the Congress enacted RA 10364 which expanded RA 9208 to fully address the issue on human trafficking. Trafficking in Persons is deemed by Congress to be tantamount to modern-day slavery at work and one of the most flagrant forms of violence against human beings.<sup>78</sup>

“The gravamen of the crime of trafficking is ‘the act of recruiting or using, with or without consent, a fellow human being for [*inter alia*,] sexual exploitation.’”<sup>79</sup> In *Santiago v. People*,<sup>80</sup> the Court stressed that “[h]uman beings are not chattels whose sexual favors are brought or sold by greedy pimps.”<sup>81</sup> Still, trafficking in persons is not only limited to using a human being for sexual exploitation, but also includes forced labor, slavery, involuntary servitude, or debt bondage.

Along these lines, it is reckoned that the law intends to *punish the act of using a human being as an economic instrument*. Notably, its purpose is to punish those people who are taking advantage of the despair and vulnerability of another for their own gain as this modern-day slavery is frowned upon in every sovereign State.

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<sup>75</sup> *Id.* at 21.

<sup>76</sup> United Nations Treaty Collection, <[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg\\_no=XVIII-12-a&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-12-a&chapter=18&clang=_en)> (last accessed on January 30, 2024).

<sup>77</sup> Sponsorship speech of Senator Loren Legarda, delivered on December 10, 2002. II Record, Senate 12<sup>th</sup> Congress, 2nd Session, p. 617 (October 15–December 18, 2002).

<sup>78</sup> Sponsorship speech of Senator Luisa Ejercito Estrada. II Record, Senate 12<sup>th</sup> Congress, 2nd Session, pp. 614–616 (October 15–December 18, 2002).

<sup>79</sup> *Brozoto v. People*, *supra* note 58, citing *People v. Estonilo*, 888 Phil. 332, 343 (2020).

<sup>80</sup> 855 Phil. 536 (2019).

<sup>81</sup> *Id.* at 539.

On the other hand, RA 9775 was enacted to protect every *child* from all forms of exploitation and abuse, and as part of the country's response and commitment to various international agreements.<sup>82</sup> A wide range of child abuse and exploitation has proliferated using online platforms which has made the creation and production of child pornography materials easier. Under the circumstances, children have become more exposed to sexual predators and pedophiles. Thus, the passage of RA 9775 is intended to fill the gap in legislation.

During the interpellation of Senator Pia S. Cayetano, she asked for clarification as to the relation of Senate Bill No. 2317 on child pornography to the then-existing laws such as RA 9208 and RA 7610, or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act." Accordingly, both have provisions on child pornography and child abuse. Senator Maria Anna Madrigal, one of the authors of the bill, categorically stated that offenders may be prosecuted for both offenses, *viz.*:<sup>83</sup>

#### INTERPELLATION OF SENATOR CAYETANO (P)

....

Considering that both the law and the bill address similar acts of pornography, Senator Cayetano (P) asked whether the bill seeks to lower the penalties. In response, Senator Madrigal stated that the punishment for anti-trafficking should be much higher than the penalty for possession of child pornography materials.

Asked if a tour engaging in trafficking and child pornography would be penalized under the bill with a lower penalty, Senator Madrigal replied in the affirmative. She asserted that the Anti-Child Pornography Act is very harsh in the sense that mere possession of child pornography materials is considered a criminal act.

On another matter, Senator Cayetano (P) asked if cases where the elements as cited in the bill are absent would automatically fall under the Anti-Trafficking Law. Senator Madrigal replied that the offenders may be prosecuted for both offenses.<sup>84</sup>

It can be inferred that in enacting RA 9775, Congress intended to make it stand alone and not absorbed by other special penal laws or the crimes punished under the Revised Penal Code (RPC). Further, the

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<sup>82</sup> Sec. 2, Republic Act No. 9775 (2009).

<sup>83</sup> Journal, Senate 14<sup>th</sup> Congress 1<sup>st</sup> Session 87(June 10, 2008), p. 945.

<sup>84</sup> *Id.*

objective of the law is to precisely prohibit any person from using children as sexual objects and exposing them to explicit sexual activities using any electronic, mechanical, digital, optical, magnetic, or any other means. *Ex facie*, the Court, in *People v. Cadajas*,<sup>85</sup> even pronounced that the offense of child pornography is *mala in se* as being inherently wrong,<sup>86</sup> for it corrupts the innocence of a child and damages him or her physically, mentally, and emotionally.<sup>87</sup>

Indeed, the State, as *parens patriae*, is under the obligation to protect one of the most important assets of our nation—our children. To fulfill the same, laws are created to punish any person who would harm the innocence of children and abuse their vulnerability. Now, the role of the Judiciary is to ensure that the laws are interpreted in accordance with its tenor and intent in its administration of justice.

RA 9208, as amended by RA 10364, was enacted to penalize offenders who take advantage of another person and use them for their personal gain in disregard of the other person's dignity.<sup>88</sup> On the other hand, RA 9775 was created to give protection to children who were abused and exposed to explicit sexual activities.<sup>89</sup> The two laws serve two different purposes and cannot be deemed as subsumed by the other. More, the amendment in RA 10364 did not introduce a provision on absorption of crimes—being the latest law and an amendment to RA 9208, the Congress could have expressed therein its intention to absorb similar acts which are punished in other special penal laws or the RPC. *Ergo, ubi lex non distinguit, nec nos distinguere debemus*—where the law does not distinguish, the courts should not distinguish. Parenthetically, the Court cannot create, expand, add exception, or limit the application of a law. “The solemn power and duty of the Court to interpret and apply the law does not include the power to correct, by reading into the law what is not written therein.”<sup>90</sup>

*The Court is constrained to affirm  
the dismissal of the charges on Child  
Pornography for being barred by  
double jeopardy*

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<sup>85</sup> G.R. No. 247348, November 16, 2021.

<sup>86</sup> *Id.*

<sup>87</sup> Dissenting Opinion of J. Caguioa in *People v. Cadajas*, *id.*

<sup>88</sup> See Republic Act No. 9208 (2003), sec. 2.

<sup>89</sup> See Republic Act No. 9775 (2009), sec. 2.

<sup>90</sup> *Chavez v. Judicial and Bar Council*, 691 Phil. 173, 209 (2012).

The RTC, in its Decision dated April 30, 2019, dismissed the other charges against accused-appellant for Child Pornography under RA 9775, in relation to RA 10175, “for being *superfluous* as they are *deemed subsumed* under the crimes she was convicted of.”<sup>91</sup> The CA, in affirming the Decision of the RTC, held in its Decision dated June 21, 2021 that the proscription against double jeopardy finds application in the case. Thus, according to the CA, the prayer of plaintiff-appellee to include a conviction for Child Pornography cannot be given due course.<sup>92</sup>

Article III, Section 21 of the Constitution provides: “*No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.*”

Time and again, the Court has always been mindful of the constitutional guarantee against double jeopardy and has been steadfast in protecting the right of an accused whose case has been terminated either by acquittal or conviction or has been dismissed without his or her consent.<sup>93</sup>

For the constitutional guarantee of double jeopardy to attach, the following requisites must concur: “(1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as that in the first.”<sup>94</sup> *Seriatim*, for the first jeopardy to attach, there must be: “(1) a valid indictment, (2) a court of competent jurisdiction, (3) the arraignment of the accused, (4) a valid plea entered by the accused, and (5) the acquittal or conviction of the accused, or the dismissal or termination of the case without the accused’s express consent.”<sup>95</sup> As to the last requirement, there are three separate circumstances that are contemplated: (a) an acquittal, which is final and executory upon promulgation; (b) a conviction of the accused by final judgment; and (c) a dismissal of the case without the express consent of the accused, which implies a final disposition or termination of the case.<sup>96</sup>

Verily, in some instances, the same act may give rise to two or more separate and distinct offenses. The Court has already resolved in the past that double jeopardy would not attach as long as there is a variance between the elements of the two offenses charged. As the rule on double

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<sup>91</sup> *Rollo*, p. 42. Italics supplied.

<sup>92</sup> *Id.* at 21.

<sup>93</sup> *See Aytona v. Paule*, G.R. No. 253649, November 28, 2022.

<sup>94</sup> *Id.*, citing *People v. Declaro*, 252 Phil. 139, 143 (1989).

<sup>95</sup> *Id.*, citing *Raya v. People*, G.R. No. 237798, May 5, 2021.

<sup>96</sup> *Id.*

jeopardy forbids another prosecution for the *same* offense.<sup>97</sup> The dismissal presupposes a *definite* or *unconditional* dismissal amounting to the termination of the case.<sup>98</sup> Simply stated, for the dismissal to be a bar under the rule on double jeopardy, it must be tantamount to an acquittal, or a dismissal which exonerates the accused of the charges against him.<sup>99</sup>

The requisites of double jeopardy are present in the Child Pornography charges.

Here, accused-appellant was charged with Child Pornography under Section 4(a) of RA 9775 in three Informations and Qualified Human Trafficking under Section 4(a) of RA 9208, as amended by RA 10364, in three Informations filed before Branch █, RTC, █, Laguna, a court of competent jurisdiction. Accused-appellant was arraigned, and she entered a plea of “Not Guilty” to the charges. Trial on the merits ensued; and on April 30, 2019, the RTC rendered a Decision finding accused-appellant guilty of Qualified Human Trafficking and dismissing the charges of Child Pornography for being superfluous and deemed subsumed under Qualified Trafficking in Persons.

The dismissal by the RTC of the charges of Child Pornography constitutes as a termination of the case that is contemplated under the proscription against double jeopardy. It is a dismissal without the express consent of accused-appellant and a final and positive termination of the charges. Verily, the right against double jeopardy may be invoked only when there was a valid judgment terminating the first jeopardy, as in the case.<sup>100</sup>

Despite being separate and distinct crimes, the erroneous judgment of the RTC, without showing that the accused was denied due process, cannot be cured on appeal as to do so would be violative of accused-appellant’s constitutional right against double jeopardy. In the case of *People v. Sandiganbayan*,<sup>101</sup> the Court held that “the government cannot secure a new trial by means of an appeal even though an acquittal may appear to be erroneous.”<sup>102</sup> Further, it does not matter whether the final

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<sup>97</sup> *Suero v. People*, 490 Phil. 760, 763 (2005)

<sup>98</sup> *People v. Molero*, 228 Phil. 375, 384 (1986), citing *Jaca v. Blanco*, 86 Phil. 452 (1950), *People v. Manlapas*, 116 Phil. 33 (1962), *People v. Hon. Surtida*, 150 Phil. 34 (1972), *People v. Mogol*, 216 Phil. 267 (1984).

<sup>99</sup> *See Republic v. Agoncillo*, 148-B Phil. 366 (1971)

<sup>100</sup> *See Raya v. People*, *supra* note 95.

<sup>101</sup> 524 Phil. 496 (2006)

<sup>102</sup> *Id.* at 520, citing *U.S. v. Ball*, 163 U.S. 662, 16 S.Ct. 1192 (1896); *Peters v. Hobby*, 349 U.S. 331, 344-345, 75 S.Ct. 790, 796 (1955); *Kepner v. U.S.*, 195 U.S. 100, 24 S.Ct. 797 (1904); *U.S. v. Sanges*, 144 U.S. 310, 12 S.Ct. 609 (1892).

judgment constitutes a formal acquittal, what is critical is that the accused obtained a favorable termination of the charges against him, and if he did, no matter how erroneous the ruling, the proscription on double jeopardy shall apply.<sup>103</sup> Indeed, a judgment of acquittal, or dismissal of a criminal complaint, which resulted from the misreckoning of the facts and pieces of evidence, and even the misinterpretation of the law and jurisprudence made by the trial court, bars another prosecution and consequently, bars an appellate review.

Nevertheless, for the guidance of the bench and the bar, Trafficking in Persons under Section 4(a) in RA 9208, as amended by RA 10364, and Child Pornography under Section 4(a) of RA 9775 are different crimes. They are two *separate* offenses with *different* elements punished by two distinct statutes. Pornography may be included in sexual exploitation in Trafficking in Persons, yet it does not necessarily mean that Child Pornography is essentially subsumed in the former. The elements of Child Pornography do not substantially form part of the elements of Trafficking in Persons.

#### *Penalty and Award of Damages*

The penalty for Qualified Trafficking in Persons under Section 10(c) of RA 9208, as amended by RA 10364, is life imprisonment and a fine of not less than PHP 2,000,000.00 but not more than PHP 5,000,000.00. The CA is correct in modifying the amount of damages awarded to the child-victims pursuant to *People v. Lalli*,<sup>104</sup> in that each child-victim shall receive PHP 500,000.00 as moral damages and PHP 100,000.00 as exemplary damages.<sup>105</sup>

Following the Court's ruling in *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*,<sup>106</sup> all monetary awards shall earn legal interest at the rate of 6% per annum from the finality of this Decision until its full payment.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated June 21, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 12991 is **AFFIRMED**. Accused-appellant JJJ is **GUILTY** beyond reasonable doubt of three counts of Qualified Trafficking in Persons defined and penalized under Republic Act No. 9208, as amended by Republic Act No.

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<sup>103</sup> *Id.* at 521.

<sup>104</sup> 675 Phil. 126 (2011).

<sup>105</sup> *Id.* at 158–159.

<sup>106</sup> G.R. No. 225433, September 20, 2022.

10364, in Criminal Case Nos. SC-22927, SC-22930 and SC-22931 filed with Branch █, Regional Trial Court, █, Laguna. She is sentenced to suffer the penalty of life imprisonment and to **PAY** a **FINE** amounting to PHP 2,000,000.00 for each count. Further, she is also **ORDERED** to **PAY** each of the victims AAA, BBB, and CCC the amounts of PHP 500,000.00 as moral damages, and PHP 100,000.00 as exemplary damages.

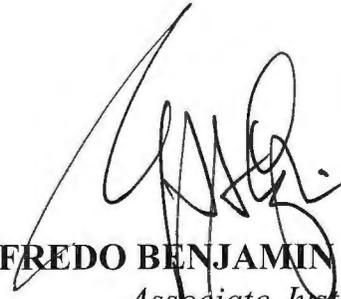
All monetary awards shall earn the legal interest of 6% per annum from the date of the finality of this Decision until its full payment.

**SO ORDERED.**



**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

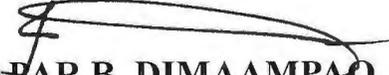
WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



**SAMUEL H. GAERLAN**  
*Associate Justice*



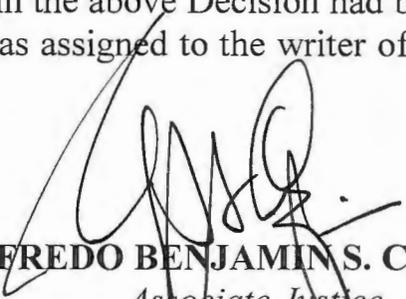
**JAFAR B. DIMAAMPAO**  
*Associate Justice*



**MARIA FILOMENA D. SINGH**  
*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.



**ALFREDO BENJAMINS S. CAGUIOA**  
*Associate Justice*  
*Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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.



**ALEXANDER G. GESMUNDO**  
*Chief Justice*

