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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
APR 02 2019



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 217978
Plaintiff-Appellee,

Present:

-versus-

CARPIO,*
PERALTA, J., *Chairperson*,
LEONEN,
REYES, A., JR., and
CARANDANG, JJ.

NANCY LASACA RAMIREZ a.k.a.
“ZOY” or “SOY,”
Accused-Appellant.

Promulgated:
January 30, 2019

X-----*Wilfredo V. Lapitan*-----X

DECISION

LEONEN, J.:

This is an Appeal assailing the Court of Appeals October 23, 2014 Decision¹ in CA-G.R. CEB-CR HC No. 01655, which affirmed the Regional Trial Court January 9, 2013 Judgment² in Crim. Case No. R-LLP-09-05622-CR. The trial court found Nancy Lasaca Ramirez a.k.a. “ZOY” or “SOY” (Ramirez) guilty beyond reasonable doubt of qualified trafficking of persons in relation to Section 4(e)³ of Republic Act No. 9208, or the Anti-Trafficking

* Designated additional Member per Raffle dated January 28, 2019.

¹ *Rollo*, pp. 3–14. The Decision was penned by Associate Justice Ramon Paul L. Hernando (now an Associate Justice of this Court) and concurred in by Associate Justices Ma. Luisa C. Quijano-Padilla and Marie Christine Azcarraga-Jacob of the Twentieth Division, Court of Appeals, Cebu City.

² *CA rollo*, pp. 38–41. The Judgment was penned by Presiding Judge Toribio S. Quiwag of Branch 27, Regional Trial Court, Lapu-Lapu City.

³ Rep. Act No. 9208 (2003), sec. 4 provides:

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

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

in Persons Act of 2003.

In an Information, Ramirez was charged with qualified trafficking of persons in relation to Section 4(e) of Republic Act No. 9208. It read:

That on the 5th day of December, 2009, at or about 9:45 o'clock (*sic*) in the evening, in [REDACTED], Lapu-Lapu City, Philippines, within the jurisdiction of this Honorable Court, the aforementioned accused, did then and there willfully and unlawfully maintain or hire Nica Jean U. Goc-ong, 20 years old, AAA, 16 year old minor, Cindy Pancho, 20 years old and BBB, 15 year old minor, to engage in prostitution and offered them for sex or any form of sexual exploitation to poseur customers.

CONTRARY TO LAW.⁴

Ramirez pleaded not guilty on arraignment. Trial on the merits ensued.⁵

The prosecution alleged that at around 9:45 p.m. on December 5, 2009, Police Officer 1 Nef Nemenzo (PO1 Nemenzo) and 13 other members of the Regional Anti-Human Trafficking Task Force conducted an entrapment operation in [REDACTED], Lapu-Lapu City. The operation was "based on their surveillance of a widespread sexual service for sale by young girls"⁶ in the area.⁷

The operation was divided into two (2) groups. PO1 Nemenzo's group targeted the area of [REDACTED] KTV Bar in front of [REDACTED] Grill. He would be disguised as a customer negotiating for the prices of the minors' services.⁸

In the bar, PO1 Nemenzo and a team member, Police Officer 1 Llanes (PO1 Llanes), ordered beers and waited for the pimps. Two (2) women approached them and introduced themselves as AAA and BBB.⁹ Upon hearing that they would need two (2) more girls, another woman approached them and introduced herself as Nancy, who was later identified as Ramirez. She told the police officers that she could provide the girls. Then, BBB and Ramirez left, and after a while, returned with two (2) more girls. They agreed that each girl would cost ₱600.00 as payment for sexual services.¹⁰

After Ramirez provided the four (4) girls, the group left and hailed a

⁴ RTC records, p. 2.

⁵ CA *rollo*, p. 38.

⁶ *Id.* at 39.

⁷ *Id.* at 38-39.

⁸ *Id.* at 39.

⁹ *Id.*

¹⁰ *Id.*

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taxi heading for ██████████ Motel. Ramirez had told the girls to accept the money that they would be given. In the taxi, PO1 Llanes handed ₱2,400.00 to one (1) of the girls. As soon as the girl received it, PO1 Nemenzo and PO1 Llanes introduced themselves as police officers, and turned the girls over to their team leader in a civilian van parked near them. The police officers were told to return to the area and await the other teams' return. Later, Ramirez was arrested when BBB pointed to her as the pimp.¹¹

The prosecution also presented the testimony of BBB, a minor, who testified knowing Ramirez and that she herself was pimped out by Ramirez several times already. BBB stated that on the night of the incident, Ramirez approached her and asked if she wanted to have sex for ₱200.00. She accepted and later, she and another girl, AAA, approached two (2) customers. The men said that they needed two (2) more girls, so Ramirez instructed BBB to get a couple more. She came back with two (2) girls, Nica and Cindy. After the deal was made, the six (6) of them boarded a taxi.¹²

Before they left, Ramirez instructed BBB to get the money from the two (2) men. While in the taxi, one (1) of the men handed her ₱2,400.00. She received the money and told her companions to set aside ₱400.00 as their pimp's share. Instead of going to the motel, the taxi stopped and the men introduced themselves as police officers.¹³

The prosecution likewise presented the testimony of AAA, a minor, who testified that she had already been pimped by Ramirez twice. On the night of the incident, AAA testified that Ramirez pimped her and three (3) other girls out to two (2) customers for ₱2,400.00. She stated that she knew Ramirez to be a pimp because Ramirez would look for customers, negotiate prices, get girls to have sex with the customers, and get commission from it.¹⁴

In her defense, Ramirez testified that at about 9:00 p.m. on December 5, 2009, she and her sister, Francy Ramirez, were at ██████████ Grill watching a live band when two (2) men rushed to them, arrested her, and pushed her into a van. She asked why she was being arrested but the men just laughed. In the van, she saw BBB, who told her that police officers were around the area to arrest prostitutes. The men then brought her to a gas station, where they were made to board another van with other women and two (2) gay men. They were brought to the police station in ██████████, Cebu City, where they were investigated for prostitution.¹⁵

¹¹ CA rollo, p. 39.

¹² Id.

¹³ Id.

¹⁴ Id. at 39-40.

¹⁵ Id. at 40.

In its January 9, 2013 Judgment,¹⁶ the Regional Trial Court found Ramirez guilty. The dispositive portion read:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered finding the accused, Nancy Lasaca Ramirez guilty of the crime of Qualified Trafficking of Person in Relation to Sec. 4 (e) of R.A. 9208 beyond reasonable doubt and sentences her to suffer the penalty of life imprisonment and a fine of Two million pesos (P2,000,000.00).

SO ORDERED.¹⁷

Ramirez appealed before the Court of Appeals.¹⁸ She argued that she does not work at [REDACTED] KTV Bar, and that it was BBB who negotiated with the poseur customers about the girls' prices and received the supposed payment for sexual services.¹⁹ She posits that the advanced payment made to BBB was "contrary to human nature and natural course of events"²⁰ since no sexual activity had occurred yet. She insists that she was in the area just to watch a live band.²¹

In its October 23, 2014 Decision,²² the Court of Appeals denied the Appeal and affirmed the Regional Trial Court January 9, 2013 Judgment. It highlighted the trial court's finding of overwhelming evidence against Ramirez, as two (2) of the minor victims positively identified her as their pimp.²³

The Court of Appeals held that Ramirez not being employed at the [REDACTED] KTV Bar was irrelevant. It also found that even if BBB initiated the negotiation with the poseur customers, the deal was only closed when Ramirez brought another pair of girls.²⁴ It further noted that it was not uncommon for the payment to be received by the hired girls instead of the pimps. In any case, BBB testified that ₱400.00 had already been earmarked from the ₱2,400.00 payment as Ramirez' commission. This was enough to conclude that she was the girls' pimp.²⁵

Ramirez filed a Notice of Appeal,²⁶ to which the Court of Appeals

¹⁶ Id. at 38–41.

¹⁷ Id. at 41.

¹⁸ Id. at 25–37.

¹⁹ Id. at 33–34.

²⁰ Id. at 34.

²¹ Id. at 34–35.

²² *Rollo*, pp. 3–14.

²³ Id. at 8.

²⁴ Id. at 11–12.

²⁵ Id. at 13.

²⁶ Id. at 15–16.

gave due course,²⁷ elevating the case records to this Court.²⁸

In its June 29, 2015 Resolution,²⁹ this Court noted the elevation of records and directed the parties to file their supplemental briefs. Both parties manifested that they were no longer submitting supplemental briefs and moved that this Court instead consider the arguments in their briefs submitted before the Court of Appeals.³⁰

While the case was pending, accused-appellant sent a handwritten letter³¹ to this Court, insisting that on the night of the incident, she was merely in the area with her sister to watch a live band. She claims that she only met BBB that night, and that BBB suddenly dragged her to look for two (2) more girls. She further alleges that it was BBB who negotiated with the two (2) customers and that she had no idea what was going on.³² She submits that BBB pointed to her as a pimp only because the police officers were threatening to detain her instead.³³

This Court is confronted with the sole issue of whether or not the prosecution proved accused-appellant Nancy Lasaca Ramirez' guilt beyond reasonable doubt of qualified trafficking of persons.

Republic Act No. 9208 defines trafficking in persons as:

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 persons, 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 crime is still considered trafficking if it involves the “recruitment, transportation, transfer, harboring[,] or receipt of a child for the purpose of exploitation” even if it does not involve any of the means stated under the

²⁷ Id. at 17.

²⁸ Id. at 1.

²⁹ Id. at 19–20.

³⁰ Id. at 22–26 and 29–31.

³¹ Id. at 34–41.

³² Id. at 35.

³³ Id. at 37.



law.³⁴ Trafficking is considered qualified when “the trafficked person is a child[.]”³⁵

In *People v. Casio*,³⁶ this Court enumerated the elements that must be established to successfully prosecute the crime:

The elements of trafficking in persons can be derived from its definition under Section 3 (a) of Republic Act No. 9208, thus:

- (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 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.”³⁷

Republic Act No. 9208 has since been amended by Republic Act No. 10364³⁸ on February 6, 2013. In recognition of the amendments to the law, *Casio* clarifies that crimes prosecuted under Republic Act No. 10364 must have the following elements:

Under Republic Act No. 10364, the elements of trafficking in persons have been expanded to include the following acts:

- (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”[.]
- (3) The purpose of trafficking includes “the exploitation or the prostitution of others or other forms of sexual exploitation,

³⁴ Rep. Act No. 9208 (2003), sec. 3(a).

³⁵ Rep. Act No. 9208 (2003), sec. 6(a).

³⁶ 749 Phil. 458 (2014) [Per J. Leonen, Third Division].

³⁷ Id. at 472–473 *citing* Rep. Act No. 9208, sec. 3(a).

³⁸ Expanded Anti-Trafficking in Persons Act of 2012.

forced labor or services, slavery, servitude or the removal or sale of organs[.]”³⁹ (Emphasis in the original)

Here, accused-appellant was charged with having violated qualified trafficking in relation to Section 4(e) of Republic Act No. 9208, which provides that it is unlawful for anyone “[t]o maintain or hire a person to engage in prostitution or pornography[.]”

The prosecution established that on the night of December 5, 2009, accused-appellant approached PO1 Nemenzo and offered him the sexual services of four (4) girls, two (2) of whom were minors, for ₱2,400.00. The police operation had been the result of previous surveillance conducted within the area by the Regional Anti-Human Trafficking Task Force. Both minor victims testified that this incident was not the first time that accused-appellant pimped them out to customers, and that any payment to them would include the payment of commission to accused-appellant.

This Court in *People v. Rodriguez*⁴⁰ acknowledged that as with *Casio*, the corroborating testimonies of the arresting officer and the minor victims were sufficient to sustain a conviction under the law. In *People v. Spouses Ybañez, et al.*,⁴¹ this Court likewise affirmed the conviction of traffickers arrested based on a surveillance report on the prostitution of minors within the area. In *People v. XXX and YYY*,⁴² this Court held that the exploitation of minors, through either prostitution or pornography, is explicitly prohibited under the law. *Casio* also recognizes that the crime is considered consummated even if no sexual intercourse had taken place since the mere transaction consummates the crime.⁴³

Here, accused-appellant cannot use as a valid defense either BBB’s and AAA’s consent to the transaction, or that BBB received the payment on her behalf. In *Casio*:⁴⁴

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.⁴⁵

³⁹ *People v. Casio*, 749 Phil. 458, 474 (2014) [Per J. Leonen, Third Division].

⁴⁰ G.R. No. 211721, September 20, 2017, 840 SCRA 388 [Per J. Martires, Third Division].

⁴¹ 793 Phil. 877 (2016) [Per J. Peralta, Third Division].

⁴² G.R. No. 235652, July 9, 2018, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/july2018/235652.pdf>> [Per J. Perlas-Bernabe, Second Division].

⁴³ *People v. Casio*, 749 Phil. 458 (2014) [Per J. Leonen, Third Division]. See also *People v. Aguirre*, G.R. No. 219952, November 20, 2017, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/november2017/219952.pdf>> [Per J. Tijam, First Division].

⁴⁴ 749 Phil. 458 (2014) [Per J. Leonen, Third Division].

⁴⁵ Id. at 475–476 citing United Nations Office on Drugs and Crime, “Human Trafficking FAQs” <<https://www.unodc.org/unodc/en/human-trafficking/faqs.html>>.

Similarly, in *People v. De Dios*:⁴⁶

It did not matter that there was no threat, force, coercion, abduction, fraud, deception or abuse of power that was employed by De Dios when she involved AAA in her illicit sexual trade. AAA was still a minor when she was exposed to prostitution by the prodding, promises and acts of De Dios. Trafficking in persons may be committed also by means of taking advantage of the persons' vulnerability as minors, a circumstance that applied to AAA, was sufficiently alleged in the information and proved during the trial. This element was further achieved through the offer of financial gain for the illicit services that were provided by AAA to the customers of De Dios.⁴⁷

Accused-appellant hired children to engage in prostitution, taking advantage of their vulnerability as minors. AAA's and BBB's acquiescence to the illicit transactions cannot be considered as a valid defense.

Accused-appellant initially used the defense of denial, testifying that she was merely in the area to listen to a live band when the police rushed to her and arrested her. Denial, however, becomes a weak defense against the positive identification by the poseur-buyer and the minor victims.⁴⁸

Moreover, accused-appellant, in her handwritten letter to this Court,⁴⁹ seemingly abandoned her earlier statement that she was just in the area to watch a live band when the police rushed to and arrested her. This time, she alleged that it was BBB who approached and dragged her to the police officers, and who also started negotiating prices.⁵⁰ This contradicts her earlier statement that she had no knowledge of the transaction. Worse, this appears to corroborate the prosecution witnesses' testimonies that she was indeed at the transaction.

In any case, PO1 Nemenzo had categorically testified that he and PO1 Llanes were approached by accused-appellant, who had negotiated prices on AAA and BBB's behalf.⁵¹ Accused-appellant has not alleged any ill motive on PO1 Nemenzo's part to testify against her.

This Court, therefore, affirms the trial court and the Court of Appeals'

⁴⁶ G.R. No. 234018, June 6, 2018, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/june2018/234018.pdf>> [Per J. Reyes, Jr., Second Division].

⁴⁷ Id. at 7-8.

⁴⁸ See *People v. Bandojo, Jr.*, G.R. No. 234161, October 17, 2018, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/october2018/234161.pdf>> [Per J. Reyes, A., Jr., Second Division].

⁴⁹ *Rollo*, pp. 34-41.

⁵⁰ Id. at 35.

⁵¹ *CA rollo*, p. 39.

conviction of accused-appellant in violation of Republic Act No. 9208, Section 4(e), as qualified by Section 6(a) and punished under Section 10(c).⁵² In *Casio*,⁵³ however, this Court held that moral damages and exemplary damages must also be imposed. In *People v. Aguirre*:⁵⁴


The criminal case of Trafficking in Persons as a Prostitute is an analogous case to the crimes of seduction, abduction, rape, or other lascivious acts. In fact[,] it is worse, thus, justifying the award of moral damages. Exemplary damages are imposed when the crime is aggravated, as in this case.⁵⁵

Thus, in line with jurisprudence, this Court deems it proper to impose moral damages of ₱500,000.00 and exemplary damages of ₱100,000.00.

WHEREFORE, the Appeal is **DISMISSED**. The Court of Appeals October 23, 2014 Decision in CA-G.R. CEB-CR HC No. 01655 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Nancy Lasaca Ramirez a.k.a “ZOY” or “SOY” is found **GUILTY** beyond reasonable doubt of having violated Republic Act No. 9208, Section 4(e), as qualified by Section 6(a). She is sentenced to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos (₱2,000,000.00). She is further ordered to pay Five Hundred Thousand Pesos (₱500,000.00) as moral damages and One Hundred Thousand Pesos (₱100,000.00) as exemplary damages to each of the minor victims, AAA and BBB.

All damages awarded shall be subject to the rate of six percent (6%) per annum from the finality of this Decision until its full satisfaction.⁵⁶

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

⁵² Rep. Act No. 9208 (2003), sec. 10. Penalties and Sanctions. — The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

....

(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)[.]

⁵³ 749 Phil. 458 (2014) [Per J. Leonen, Third Division].

⁵⁴ G.R. No. 219952, November 20, 2017, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/november2017/219952.pdf>> [Per J. Tijam, First Division].

⁵⁵ Id. at 11, citing *People v. Lalli, et al.*, 675 Phil. 126 (2011) [Per J. Carpio, Second Division]; *People v. Casio*, 749 Phil. 458 (2014) [Per J. Leonen, Third Division]; and *People v. Hirang*, 803 Phil. 277 (2017) [Per J. Reyes, Third Division].

⁵⁶ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice
Chairperson



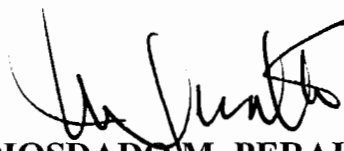
ANDRES B. REYES, JR.
Associate Justice



ROSMARI D. CARANDANG
Associate Justice

ATTESTATION

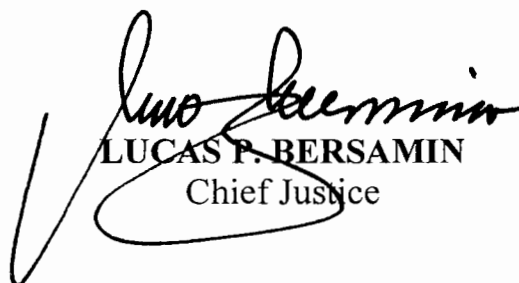
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Chairperson

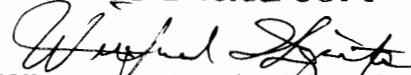
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

APR 02 2019