



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 237697

Present:

- versus -

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

EMMA LEOCADIO y SALAZAR
and SHERRYL LEOCADIO y
SALAZAR,

Promulgated:

Accused-Appellants.

JUL 15 2020 *mitubnl*

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DECISION

PERALTA, C.J.:

On appeal is the June 29, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 02220 which affirmed with modifications the September 24, 2015 Decision² of the Regional Trial Court (RTC), Branch 20, Cebu City in Criminal Case No. CBU-93590, finding accused-appellants Emma Leocadio y Salazar and Sherryl Leocadio y Salazar guilty beyond reasonable doubt of Qualified Trafficking in Persons under Section 6 (a) and (c), in relation to Sections 4 (a) and 3, and penalized under Section 10 (a) and (c) of Republic Act (R.A.) No. 9208, otherwise known as the *Anti-Trafficking in Persons Act of 2003*.

In an Information³ dated August 25, 2011, accused-appellants were charged with Qualified Trafficking in Persons under Section 6 (a) and (c), in relation to Sections 4 (a) and 3, and penalized under Section 10 (a) and (c) of R.A. No. 9208, committed as follows:

¹ Rollo, pp. 4-31. Penned by Associate Justice Marilyn B. Lagura-Yap, with the concurrence of Associate Justices Gabriel T. Ingles and Germano Francisco D. Legaspi.

² CA rollo, pp. 39-61. Penned by Presiding Judge Bienvenido R. Saniel, Jr.

³ Records, pp. 1-2.

That on or about the 5th day of August 2011, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping each other, recruit, transport, transfer, harbor, provide or receive a person for the purpose of prostitution, pornography, or sexual exploitation, [JJJ],⁴ 16 years old, [KKK], 17 years old, [CCC], 15 years old, [AAA], 17 years old, [DDD], 16 years old, [BBB], 18 years old, [GGG], 13 years old, [HHH], 15 years old, [FFF], 15 years old, [III], 16 years old, [LLL], 17 years old and [MMM], 17 years old, that is by recruiting them from Bohol and transport them to Cebu on their way to Angeles, Pampanga to work in an internet café for purposes of [cybersex] by means of taking advantage of their vulnerability and/or giving payments or benefits to achieve the consent of the person having control over the said trafficked persons, by offering them work in an internet café in Angeles, Pampanga and/or giving their parents or the person having custody[,] money or other benefits. With the qualifying circumstances of being committed in large scale as more than three (3) persons were trafficked and that the trafficked persons are minors.

CONTRARY TO LAW.⁵

In their arraignment, accused-appellants pleaded not guilty⁶ to the charge. During the trial of the case, they were detained at the Cebu City Jail.

The prosecution presented six (6) witnesses, namely: CCC, DDD, AAA, BBB, Edna Regudo and Police Officer 2 (PO2) Jessie Carel. The defense, for its part, presented accused-appellants and Annabel Tampus.⁷

Version of the Prosecution

Sometime in the first week of August 2011, a group of girls were invited to work in an internet café in Angeles, Pampanga. The group was composed of twelve (12) girls who were all minors except for one, BBB, who was eighteen (18) years old. These minors were from Jagoliao and Nasingin, separate island *barangays* of the Municipality of Getafe, Bohol. Four (4) of the victims were presented as witnesses for the prosecution, namely: CCC, DDD, AAA and BBB. The respective recruitments of the girls were done under different circumstances as four (4) of them were from Jagoliao and eight (8) came from Nasingin. Witnesses CCC and BBB were from Jagoliao, while AAA and BBB came from Nasingin.

⁴ 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. 7610, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; Republic Act No. 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 A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and Their Children," effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (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.

⁵ Records, p. 1.

⁶ *Id.* at 86 and 87.

⁷ CA rollo, p. 39.

In the case of CCC, she was recruited by accused-appellants in Jagoliao. It was Sherryl who told her that, "I will bring you to Manila and work in an internet café to dance strip wearing only bra and panty."⁸ Thereafter, Emma talked to her mother about the work and gave her mother the amount of Two Thousand Pesos (₱2,000.00) to be deducted from CCC's salary. On the other hand, in the case of DDD and AAA, they were approached in Nasingin by Ella Leocadio and a certain woman, respectively, inviting them to work and to go to the house of Annabel to list their names there. Once they were at the house of Annabel, they were able to meet accused-appellants. Emma then looked at them from head to foot and instructed them to fetch their mothers so she could talk to them. DDD and AAA then told Emma that they did not know how to use the computer to which Emma assured them not to worry because Sherryl would teach them. At the time they were already in Cebu, Emma told them over lunch about their work in the internet café: they should abide with what the foreigner instructed them to do. Should the foreigner ask them to undress, they should follow without worrying because the foreigner was just in the internet and in another country.⁹

With regard to BBB, she previously worked in the said internet café owned by Richard Leocadio, Emma's son, and Janice Delosa in Pampanga from April 2010 to December 2010. During the subject incident in this case, she was working in a *carinderia* in Lapu-Lapu City for only three (3) days when she was fetched by their neighbor Prescilla Leocadio Abellar, accompanied by her grandmother. She was told to go home because her father was sick. However, it was disclosed by Ella that her father was not actually sick and it was only meant to deceive her for her to go home since Ella was instructed by Emma to get her as Richard wanted BBB to go back to Pampanga to work for him. During the time that BBB was already in Jagoliao, she was approached by Sherryl who recruited her to work in Pampanga. At first, she did not agree to Sherryl's offer but in a few days, she made known her intention to go back to Pampanga. Her decision was prompted by the loan obtained from Emma, and charged to her, which was used for the expenses of Ella and her grandmother in fetching her in Lapu-Lapu City from Bohol and back.¹⁰

CCC and BBB corroborated the fact that they traveled from Jagoliao to Nasingin onboard a pump boat to fetch ten (10) other female minors, together with accused-appellants. Emma was the one who paid for their fares and, according to CCC and BBB, their fares were deductible from their salaries. When they arrived in Pier 1 of Cebu City from Getafe, Bohol, they went to the house of Emma's friend and ate there. Thereafter, they were brought to a ticketing counter by accused-appellants, together with the two (2) other female minors. They waited while accused-appellants bought their tickets for the Super Ferry bound for Manila. After that, they went back to the house of

⁸ TSN, April 12, 2012, p. 8.

⁹ CA *rollo*, pp. 40-44.

¹⁰ *Id.* at 44-45.

Emma's friend while Emma took another set of female minors by 3's and 4's to the ticketing booth. Further, they were made to group by 5's with each group having a member with a cellphone to contact them. Emma asked if they have somewhere to stay the night in, and for the both of them and their group, they stayed at CCC's aunt's house in Pasil. They were given a budget of Five Hundred Pesos (P500.00) for their meals and were instructed to meet at Pier 4 the following day.¹¹

For the circumstances surrounding DDD, she was seventeen (17) years old and a resident of Nasingin, Getafe, Bohol. On August 1, 2011, Ella approached her and her companions and asked whether they would like to work in an internet café in Angeles, Pampanga. In the evening of August 2, 2011, DDD, together with FFF and HHH, went to the store of Anna, Emma's niece, and had their names listed. The following day, GGG told them to go to the house of Annabel because accused-appellants were waiting for them and would evaluate them whether they would qualify to work in the internet café. At about 2:00 p.m., DDD went there with GGG and FFF. When they arrived, Emma looked at them from head to foot. They were subsequently told by Emma that they were qualified and were advised to call their mothers. When DDD's mother arrived in the house of Annabel, Emma gave her One Thousand Pesos (P1,000.00), to be deducted from her salary. At first, DDD understood that the work being offered to her was to look after an internet café.¹² It was only later on, when they were in Cebu City, that she found out about their real job in Pampanga which was to strip dance in front of a foreigner and abide if asked to undress.

AAA, on the other hand, was also seventeen (17) years old and a resident of Nasingin, Getafe, Bohol. She quit school and worked as a housemaid and as a babysitter in Cebu City and Lapu-Lapu City. She subsequently returned to her hometown and worked for her aunt. At one time, while she was talking with her cousin, together with other girls, a certain woman inquired whether they wanted to work in Manila as internet attendants. Afterwards, they were asked to go to the house of Annabel. At the time they were already at Annabel's house, AAA was instructed to fetch her mother. She went home to tell her mother. Her mother went to the said house of Annabel where Emma and her mother had a conversation. She learned later that her mother did not receive the One Thousand Pesos (P1,000.00) as promised by Emma. Before they left for Cebu City, she received the said amount from Emma which she then gave to her mother.¹³

Meanwhile, DDD and AAA also corroborated on the incident which occurred in Cebu City. On August 5, 2011, they met at Pier 4, together with Emma who gave them their respective tickets. They noticed that the tickets given to them stated that they were all of legal ages when, in fact, they were

¹¹ *Id.* at 40 and 45.

¹² *Id.* at 41.

¹³ *Id.* at 43-44.

not. When they tried boarding the ship, they were denied entry and prevented from proceeding by the person to whom they gave their tickets. AAA saw a man approach Emma and asked her if she was indeed Emma. After the incident, they were brought to the police station. There, they were made to sit and photographed. They were also asked of their ages. An investigation was conducted where they were interviewed one by one. Thereafter, the policemen brought them to the Department of Social Welfare and Development (DSWD). All the girls properly identified accused-appellants in court.¹⁴

PO2 Carel corroborated the events on the day of the incident. On August 5, 2011, he was assigned at the 701st Maritime Police Station, CPA Compound, Port Area, Pier 6, Cebu City. On that day, he received a telephone call from the security guard of Supercat Terminal Office, Pier 4, Port Area, Cebu City. The security guard was asking for their assistance. He then informed his team and they immediately went to the Supercat Terminal. He was with Senior Police Officer 2 Francisco Elope, the team leader, and PO3 Florito Banilad. They arrived at the Supercat Terminal at about 6:15 p.m. There, the security guard informed them about two (2) women who were herding minors inside the terminal. When PO2 Carel looked around, he saw a group of girls, about fifteen (15) minors, who looked suspicious and innocent. Upon seeing them, the police officers approached accused-appellants, and identified themselves as members of the Maritime Police. They asked accused-appellants whether they have in their possession documents required in the travel of the minors, *i.e.*, parent's consent or authority from the Department of Labor and Employment. Accused-appellants were not able to present them. For that reason, they were placed under arrest for violation of R.A. No. 9208. Immediately thereafter, the police authorities read the Miranda Rights to them and were subsequently brought to the police station, together with the minors. At the police station, the police officers asked the girls for their tickets for documentation and noticed that there were erasures on the tickets, particularly regarding their ages. Further, as a standard operating procedure, the incident was entered in the blotter report.¹⁵

In addition, Regudo, a social worker of the DSWD, testified that on August 5, 2011, fifteen (15) girls were referred by the Maritime Police of Cebu City for protective custody and temporary shelter to their office. Out of the fifteen (15) girls, eleven (11) admitted to being minors. Out of the eleven (11) girls who admitted that they were minors, only nine (9) were able to secure documents of birth, while the two (2) other girls did not have records of birth from the National Statistics Office. Regudo further testified that she was able to conduct in-take interview with six (6) of the victims.¹⁶



¹⁴ *Id.* at 42-44.

¹⁵ *Id.* at 48-50.

¹⁶ *Id.* at 47-48.

Version of the Defense

Emma is a native of Jagoliao, Getafe, Bohol. In 1980, she went to Manila to find work. She met her husband, Conrado Leocadio, and got married in 1982. They then resided in Tandang Sora, Quezon City and were blessed with seven (7) children, namely: Richard, Ronald, Aiza, Lea, Sherryl, May and Christian. In 1996, Emma and her family went back to her hometown in Jagoliao, Getafe, Bohol. She constructed a house at said place where she and her family stayed for two (2) years or until 1998. Eventually, they returned to Manila and established a junkshop business to support their family. However, the junkshop business was stopped when she got separated from her husband in 2000. After her separation, she opened a small store in her house in Tandang Sora, Quezon City to support her children living with her.¹⁷

Sometime in July 2011, Emma took a vacation in Jagoliao, Getafe, Bohol, together with her daughter, Sherryl. Her primary purpose was to secure four (4) housemaids; two (2) for her, to be the *yaya* of her child with her live-in partner, and the other two (2) for her son Richard. During the vacation, Emma went to see her sister and relatives. She also managed to visit her niece, Annabel, in Nasingin, Getafe, Bohol, on the first week of August 2011. During their conversation, three (3) women, namely: SSS, QQQ and RRR, who are relatives of the husband of Annabel, appeared purposely to request Emma to be the escort of their children in going to Manila, whose aunts would meet them once they arrive thereat. After a while, three (3) more persons arrived: OOO, PPP and NNN. They came with their children whom they introduced to Emma. NNN is the mother of EEE, and RRR is the mother of AAA. Emma was, at first, hesitant to accompany the children because she did not have the money for their fares and food. However, the parents had an agreement with Emma that they would provide for the fares and allowances of their children.¹⁸

Upon their return to Manila, Emma and her daughter Sherryl, and four (4) hired helpers, took a pump boat from Jagoliao on their way to the wharf of Getafe, Bohol, and had to pass by Nasingin to pick up the children of their relatives who would accompany them in going back to Manila. Surprisingly, she saw other young girls accompanying the children of her relatives who also boarded the pump boat to go with them to Manila. The said young girls were friends of the children of her relatives who were enticed to work with them.¹⁹

Meanwhile, Sherryl confirmed that she accompanied her mother at the latter's request. It was her second trip to Getafe, Bohol. They stayed at her half-sister Ella's house. For their subsistence, they depended on the income of their store. She added that they have no internet café business. Except for III,

¹⁷ *Id.* at 52.

¹⁸ *Id.*

¹⁹ *Id.*



who is her niece, being the daughter of Ella, she did not know the other fourteen (14) girls.²⁰

At the port of Getafe, Bohol, accused-appellants, together with the other girls, boarded a motorized *banca* and landed at Pier 1, Cebu City. It was agreed upon by the group that Emma would take charge in buying their tickets and they would be texted where to meet thereafter. Emma shouldered the fare of the four (4) girls that would be their helpers and the other remaining girls contributed their own money for the fare. The group eventually separated. Accused-appellants rested in a hotel, while the fifteen (15) girls took shelter at their relatives' houses in Pasil, Cebu City.²¹

In the afternoon of August 5, 2011, accused-appellants and the other fifteen (15) girls met at the Supercat Terminal, Cebu City, to board the vessel on their way to Manila. While inside the Supercat Terminal, some male persons not in uniform approached them and asked for their tickets. They were brought to another place, allegedly to check on their tickets. After an hour, they were brought to the police station at the waterfront and were detained. They were told that the parents of the minors need to appear so that they could get out of the police station. Accused-appellants claimed that they were not arrested and were not even asked why they were travelling with the minors. Due to this, Sherryl called Ella in Jagoliao, Getafe, Bohol, to inform the latter of the situation. The next day, August 6, 2011, the parents of the minor children arrived at the police station. However, they were not allowed to talk to their children and their presence was completely ignored.

RTC Ruling

After trial, the RTC handed a guilty verdict on accused-appellants for Qualified Trafficking in Persons. The dispositive portion of the September 24, 2015 Decision states:

WHEREFORE, upon all foregoing considerations, the court finds accused EMMA LEOCADIO and SHERRYL LEOCADIO GUILTY beyond reasonable doubt of the crime of qualified trafficking in persons in violation of Section 4 in relation to Section 6 of Republic Act No. 9208, and hereby sentences each of them to life imprisonment. Each accused is also ordered to pay fine in the amount of Two Million Pesos (Php2,000,000.00).

SO ORDERED.²²



²⁰ *Id.* at 50-51.

²¹ *Id.* at 52.

²² *Id.* at 61.

CA Ruling

On appeal, the CA affirmed the RTC Decision with modifications. The CA agreed with the findings of the trial court that accused-appellants committed qualified trafficking, considering that the trafficked persons were children, done in large scale as the trafficking was committed against three or more persons. They recruited, transported, transferred and harbored at least three minors for sexual exploitation purposes, particularly cybersex. The appellate court was of the opinion that even if the parents gave their consent for accused-appellants to bring their daughters to Pampanga to work in an internet café for cybersex, it does not negate the offense. Trafficking is still committed by means of taking advantage of the vulnerability of the trafficked person. In this case, poverty rendered the minors vulnerable to trafficking. The CA also ruled on the issue of conspiracy between accused-appellants. For the appellate court, conspiracy exists as accused-appellants performed overt acts for the accomplishment of a common purpose: to recruit and transport the minors to Pampanga to perform indecent acts on the internet. Further, the CA added the award of moral damages in the amount of Five Hundred Thousand Pesos (₱500,000.00) and exemplary damages of One Hundred Thousand Pesos (₱100,000.00). Lastly, the appellate court ruled that accused-appellants shall not be eligible for parole, pursuant to Section 3 of R.A. No. 9346.²³

Before us, the People and accused-appellants manifested that they would no longer file a Supplemental Brief, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA. Essentially, accused-appellants maintain their innocence for violation of R.A. No. 9208 and claimed that they did not recruit the minors. On the contrary, the parents of the girls were the ones who approached them to bring their daughters to Manila to find work. Lastly, they argued that there was no conspiracy between accused-appellants in the commission of the crime charged.

Our Ruling

We find the appeal bereft of merit.

Contrary to the contentions of accused-appellants, the prosecution was able to sufficiently establish the commission of the crime. Pertinent provisions of R.A. No. 9208, being the law that defines the crime of Trafficking in Persons, read as follows:

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

(a) Trafficking in Persons — refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without



the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

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

(b) Child — refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.

Further, in *People of the Philippines v. Nancy Lasaca Ramirez*,²⁴ 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 [harboring], 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."

In this case, the prosecution has successfully established all the elements of trafficking in persons.

As regards the first element, all the four (4) girls, namely: CCC, DDD, AAA and BBB, categorically testified that accused-appellants recruited them to work in an internet café in Angeles, Pampanga. It is apparent from the testimonies of CCC and DDD that they referred to Emma as "*Tiya Babing*" and to Sherryl as "*Ate Carla*." Witnesses CCC, DDD and AAA were consistent in their narration on how they were recruited which all involved

²⁴ G.R. No. 217978, January 30, 2019.

giving a payment in advance to be deducted from their salaries. The testimony of CCC provides:

- Q: Were you told how long will you work in Pampanga?
A: Tiya Babing said that it would depend on me.
- Q: Depend on what?
A: It would depend on when will I go home.
- Q: What will you do to get your salary?
A: I do not know.
- Q: After that [CCC], after you were given permission by your parents to work in Pampanga, do you know if Tiya Babing and Ate Carla gave money to your mother and father?
A: Yes.
- Q: How much?
A: P2,000.00 (two thousand pesos).
- Q: What was that P2,000.00 for?
A: Used to buy some of my things.
- Q: Was that for full?
A: No, deductible from my salary.²⁵

Meanwhile, the testimony of DDD contains the following:

- Q: After looking at you, what did Babing say?
A: She said we could qualify to watch at the internet café.
- Q: After saying that what happened?
A: She told us to call our mother.
- Q: Did you call your mother?
A: Yes.
- Q: What happened after you called your mother?
A: She gave us P1,000.00.
- x x x x
- Q: Earlier you said that Babing gave you P1,000.00 what was that for free?
A: No.
- Q: Who will pay for that?
A: To be deducted from our salary.
- Q: Who said that?
A: Carla and Babing that was August 3.²⁶

²⁵ TSN, April 12, 2012, p. 13.
²⁶ TSN, May 17, 2012, pp. 13-16.



For AAA, her testimony is consistent with the testimonies of CCC and DDD, thus:

Q: Where will you stay [in] Pampanga?

A: In the place of Emma.

Q: When Emma told you about this information, what else transpired in the house of Annabel?

A: She had our parents called.

Q: What did you do?

A: I called my mother.

X X X X

Q: Who asked you to call your parents?

A: It was Emma, your Honor.

X X X X

Q: Do you know the reason why, if you know?

A: Yes.

Q: What was the reason?

A: To give an advance money.

Q: [Was] your mother able to get money?

X X X X

Q: Did you call your mother and told her that there was a requirement of advance money?

A: Yes, your Honor.

Q: How much money was required as advance money?

A: P1,000.00 (one thousand pesos), your Honor.

X X X X

Q: When you say advance, who will give the money?

A: Emma.

Q: Was your mother able to get advance money from Emma?

A: Yes.

Q: How much?

A: P1,000.00 (one thousand pesos).

Q: If you know, who will pay for this advance money?

A: From my salary.²⁷

In the case of BBB, she was previously employed by Richard, Emma's son, and Janice in Pampanga, from April 2010 to December 2010, and was asked to go back to work. She made her decision to go back to work because

²⁷ TSN, August 7, 2012, pp. 11-13.



of a loan obtained from Emma which was also to be deducted from her salary. Aside from the act of recruiting, accused-appellants were caught transporting, transferring and harboring the victims from their hometown in Getafe, Bohol, onboard a pump boat, to Cebu City on August 4, 2011.

On the second element, it is apparent from this case that no threat, force or coercion was employed by accused-appellants in the trafficking of the victims. However, they took advantage of the vulnerability of the victims to secure the consent of their parents. They are vulnerable in the sense that they are underprivileged and it is apparent from their testimonies that they needed to earn money. In the case of CCC, both her parents are fishermen and she has seven (7) siblings.²⁸ For DDD, her father works as a repairman of *banca*, her mother is a housewife, and she is 2nd among five (5) siblings.²⁹ AAA, meanwhile, testified that she is an out-of-school youth, her father is a fisherman, her mother is a housewife, and she has seven (7) siblings.³⁰ On the other hand, BBB is just an elementary graduate because her parents cannot afford to send her to school as her father is a fisherman and her mother is a housewife.³¹ Considering that the victims came from poverty-stricken families, it renders the victims vulnerable to trafficking. Trafficking in persons can still be committed even if the victim gives consent.

In the case of *Antonio Planteras, Jr. v. People of the Philippines*,³² the Court ruled that:

Knowledge or consent of the minor is not a defense under Republic Act No. 9208. 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.

Anent the third element, in the present case, it has been proven that the purpose of trafficking is for prostitution or sexual exploitation. Sections 3 (c) and 3 (f) of R.A. No. 9208 define the meaning of prostitution and sexual exploitation, respectively:

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

X X X X

(c) Prostitution — refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

X X X X

²⁸ TSN, April 12, 2012, p. 7.

²⁹ TSN, May 17, 2012, p. 6.

³⁰ TSN, August 7, 2012, pp. 5-6.

³¹ TSN, October 2, 2012, pp. 7-8.

³² G.R. No. 238889, October 3, 2018 (citations omitted).

(f) Sexual Exploitation — refers to participation by a person in prostitution or the production of pornographic materials as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of a victim's vulnerability.

Prostitution and sexual exploitation are present in this case. CCC and DDD clearly and consistently testified that they were told that they would work in an internet café to undress and perform obscene acts. Apparent from the testimonies of the victims, some of them know Emma as "*Tiya Babing*" and Sherryl as "*Ate Carla*." The testimonies of the victims provide the following:

Direct Testimony of CCC:

Q: Why are you here in Cebu City?

A: To apply for work in Manila.

Q: What work is that?

A: To work at an internet café and to dance strip wearing bra and panty only.

Q: Who told you about your work?

A: It was Ate Carla.

Q: When you say Ate Carla are you referring to the accused in this case?

A: Yes, because it was Ate Carla who told me that there is work.

Q: Can you tell the court what exactly Ate Carla told you about the work?

A: She said, Day, "I will bring you to Manila and work in an internet café to dance strip wearing only bra and panty."

Q: Where exactly in Manila you will work?

A: What I remember is Pampanga.³³

Direct testimony of DDD:

Q: When you reached the house of her cousin, what happened next?

A: We took lunch.

Q: Who provided the food?

A: Carla and Babing.

Q: While eating lunch did you talk about something?

A: Yes.

Q: Can you tell the court what did you talk about?

A: Babing told us that we would abide what the foreigner would say.

Q: Where was that foreigner?

A: In the internet.

Q: Did she say something what would the foreigner might say?

A: Yes.

Q: What?

A: She said that if the foreigner would command us to undress we would undress.³⁴

On the other hand, BBB testified that she worked previously for Emma's son, Richard. During the time when she was employed by Richard, she was made to undress facing the camera and to dance in front of it. In the present case, she was again recruited to work for Richard in Pampanga. Thus, her direct testimony contained the following:

Q: You mentioned that you worked in the internet, what was your work there?

A: Entertained customers.

Q: Where is this internet place that you mentioned?

A: In Pampanga.

X X X X

Q: How long did you work there?

A: Eight (8) months.

Q: When did you start and when did you end?

A: I started working in the internet in Pampanga on April 10, 2010, and I stopped working on December 10, 2010.

Q: Earlier, [BBB,] you mentioned that you entertained customers. Can you be specific how do you entertain customers in your internet work place?

X X X X

Q: Can you be specific of how you entertained customers?

A: I would ask for their names.

Q: And then?

A: Then they would ask me for a show.

X X X X

Q: What do you mean by that asking you for a show?

A: They would like me to undress, your honor.

X X X X

Q: After undressing yourself what else do you do?

A: We dance, your honor.

Q: Also in front of the camera?

A: Yes, your honor.

X X X X

Q: Who manages the work place, [BBB]?

A: Janice and Richard.

Q: You mentioned a certain Richard, do you know the complete name?

A: Leocadio.

X X X X

Q: So what was your work in that [carinderia] in Lapulapu City?

A: House helper.

Q: How long did you work there?

A: Three (3) days.

Q: Why only three (3) days, what happened?

A: Because my grandmother together with a neighbor fetched me there.

Q: Can you tell the court the name of your lola?

A: Trinidad Abaño.

Q: You also mentioned of a neighbor. Do you know the name of this neighbor?

A: Prescila Leocadio Abellar.

X X X X

Q: You said that they fetched you there, what happened at that time?

A: According to Tia Ella, my father wants me to go home because he is sick.

X X X X

Q: So, what happened after you left your employer's place?

A: Tia Ella told me that it was just a joke when she said that my father was sick.

X X X X

Q: So, what did you do upon hearing that?

A: I wanted to go back to my boss, but she said that she wants me to go to Manila.

X X X X

Q: So, who would want you to go to Manila?

A: From what she told me, she said that Kuya Richard wants me to go back to Manila to work.

X X X X

Q: When you arrived in Jagoliao what happened there?

A: I saw Ate Carla at the videoke bar.

Q: Is this Ate Carla the accused in this case?

A: Yes, ma'am.

Q: What did Ate Carla say to you?

A: She asked me where I am going. Am I going to Richard or to her Tatay?

Q: What do you mean by "asa kuno ko"? What do you mean by that?

A: Where would I work.

Q: This Kuya Richard how is he related to this Ate Carla?

A: Brother and sister.

X X X X

Q: What happened next after Ate Carla asked you that?

A: I did not decide immediately.

Q: So when did you decide [BBB]?

A: Only on August 3.

Q: Whom did you tell your decision?

A: Ate Carla.

X X X X

Q: Do you know a certain Babing?

A: Yes, ma'am.

Q: How do you know her?

A: She went to our house.

Q: When you say "amoa", what do you mean? Your house or place in Bohol?

A: In our place.

X X X X

Q: What did she do there?

A: She was there for a vacation.

Q: By the way, who if you know, sent Ella to fetch you from your work place in Lapulapu?

A: Tia Babing

Q: Why were you able to say that?

A: Because Tia Ella told me.

Q: What did she say?

A: That I would go with them to Manila.

Q: Who said that you should go with them to Manila?

A: Tia Ella.

Q: Who told Tia Ella.

A: Tia Babing.³⁵

Based from the said declarations of the witnesses, they were recruited by accused-appellants to perform lewd acts, indecent shows and pornography in the internet.

The fact that there were no actual indecent shows that were performed by the victims, except for BBB, is immaterial. It is not necessary that the victims have performed or are performing the act of prostitution or sexual exploitation at the time when the perpetrators were apprehended. The material fact in the crime charged is that the purpose of the perpetrators is to engage the victims in the said act of prostitution or sexual exploitation.

In sum, accused-appellants recruited the victims to work in Angeles, Pampanga. They used the means of taking advantage of the vulnerability of the victims, although this is not material as the victims were all minors, except for BBB. Lastly, their purpose for trafficking was prostitution or sexual exploitation. Based on the definition of trafficking in persons and the enumeration of acts of trafficking in persons, accused-appellants performed all the elements in the commission of the offense.

Meanwhile, Section 6 of R.A. No. 9208 provides:

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

- (a) When the trafficked person is a child;

X X X X

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

In the present case, the evidence of the prosecution clearly established that all the twelve (12) victims were minors, except for BBB. According to the definition laid down in Section 3 (b) of R.A. No. 9208, a child refers to a person below eighteen (18) years of age. Considering that eleven (11) of the victims were minors, the offense becomes qualified as the persons being trafficked were children. In addition, if the crime was committed in large scale as it was committed against three (3) or more persons, individually or as a group, it is also qualified. In the case at bar, records show that it was committed against twelve (12) individuals, hence, it is qualified.

On the other issue presented by accused-appellants, they are claiming that conspiracy in the commission of the crime was not proven. They argued



that Sherryl only accompanied her mother Emma in having a vacation in Getafe, Bohol and she had no part in the alleged recruitment.

We are not persuaded.

In *People v. Lababo*,³⁶ citing *Bahilidad v. People*,³⁷ the Court summarized the basic principles in determining whether conspiracy exists or not. Thus:

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co[-]conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co[-]conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.³⁸

Conspiracy is said to exist where two or more persons come to an agreement concerning the commission of a felony and decide to commit it. It can be proven by evidence of a chain of circumstances and may be inferred from the acts of the accused before, during and after the commission of the crime which indubitably point to and are indicative of a joint purpose, concert of action and community of interest.³⁹

Based from the totality of the circumstances of the instant case, conspiracy exists. Accused-appellants performed overt acts for the accomplishment of a common purpose of recruiting and transporting the victims to Angeles, Pampanga to perform indecent acts, particularly cybersex. It was established from the testimonies of the witnesses that accused-appellants, together and, at times, individually, recruited them to work in an internet café in Angeles, Pampanga. To be specific, in the case of CCC, it was

³⁶ G.R. No. 234651, June 6, 2018, 865 SCRA 609.

³⁷ 629 Phil. 567 (2010).

³⁸ *People v. Lababo*, *supra* note 36, at 628.

³⁹ *People v. Peralta*, 435 Phil. 743, 764 (2002).

Sherryl who told her that, "I will bring you to Manila and work in an internet café to dance strip wearing only bra and panty."⁴⁰ Further, all the victims who became witnesses clearly established that accused-appellants were the ones who gave them instructions and bought their tickets in going to Manila.

The evidence shows that the chain of circumstances necessarily leads to the conclusion that there was a concerted action between accused-appellants with the objective of trafficking the minors for the purpose of pornography or sexual exploitation.

With regard to the proper penalty to be imposed, Section 10 (c) of R.A. No. 9208 provides that persons found guilty of Qualified Trafficking shall suffer the penalty of life imprisonment and a fine of not less than Two Million Pesos (₱2,000,000.00) but not more than Five Million Pesos (₱5,000,000.00). Thus, the courts *a quo* correctly sentenced accused-appellants to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos (₱2,000,000.00).

In addition, the CA is correct in ordering accused-appellants to pay the amount of One Hundred Thousand Pesos (₱100,000.00) as exemplary damages, in reference to prevailing jurisprudence,⁴¹ considering that the crime of Trafficking in Persons was aggravated, being committed in large scale. However, this Court must make an adjustment with regard to the amount of moral damages. In *People v. Casio*,⁴² it was held that:

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. To be trafficked as a prostitute without one's consent and to be sexually violated four to five times a day by different strangers is horrendous and atrocious.

It is true that the victims in this case were minors. They undoubtedly suffered mental anguish, fright and serious anxiety, being put in a compromising situation that happened in this case, and to be trafficked to be a prostitute and to be sexually exploited. Nevertheless, they were not placed in the actual situation of doing cybersex, except for BBB, but her past experience of actually being sexually exploited is not the subject of the present case. Unlike in *Casio*, the victims in that particular case were already subjected to the actual prostitution and sexual exploitation. Although it does not affect the consummation of the offense of qualified trafficking in persons, it makes a difference in the award of moral damages. Thus, this Court deems it proper that the award of One Hundred Thousand Pesos (₱100,000.00) as moral damages be given, taking into consideration the factual differences of the present case from previous jurisprudence, like the case of *Casio*. Likewise,

⁴⁰ TSN, April 12, 2012, p. 8.

⁴¹ *People v. Casio*, 749 Phil. 458, 484 (2014).

⁴² *Id.* at 482.

this Court finds it appropriate to impose on all monetary awards due to the victims legal interest at the rate of six percent (6%) per annum from finality of this Decision until full payment.⁴³

Finally, the Court finds that the phrase "shall not be eligible for parole under Act No. 4103 (Indeterminate Sentence Law) in accordance with Section 3 of Republic Act No. 9346" need not be appended to qualify accused-appellants' prison term of life imprisonment, in line with the instructions given by the Court in A.M. No. 15-08-02-SC⁴⁴ and, hence, must be deleted. Likewise, parole is extended only to those convicted of divisible penalties. Accordingly, the dispositive portion of this Decision should simply state that accused-appellants are sentenced to suffer the penalty of life imprisonment without any qualification.

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The June 29, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 02220 is hereby **AFFIRMED** with **MODIFICATIONS**. Accused-appellants Emma Leocadio y Salazar and Sherryl Leocadio y Salazar are found **GUILTY** beyond reasonable doubt of Qualified Trafficking in Persons under Section 6 (a) and (c), in relation to Sections 4 (a) and 3, and penalized under Section 10 (a) and (c) of Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003." Accused-appellants are sentenced to suffer the penalty of life imprisonment, and each of them is ordered to pay a fine of Two Million Pesos (₱2,000,000.00).

Accused-appellants are ordered to pay each of the private complainants:

1. ₱100,000.00 as moral damages; and
2. ₱100,000.00 as exemplary damages,

⁴³ *People v. Jugueta*, 783 Phil. 806, 854 (2016).

⁴⁴ Section II of A.M. No. 15-08-02-SC (Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties) states:

X X X X

II.

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "without eligibility for parole":

(1) In cases where the death penalty is not warranted, there is no need to use the phrase "without eligibility for parole" to qualify the penalty of reclusion perpetua; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of "without eligibility for parole" shall be used to qualify reclusion perpetua in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.



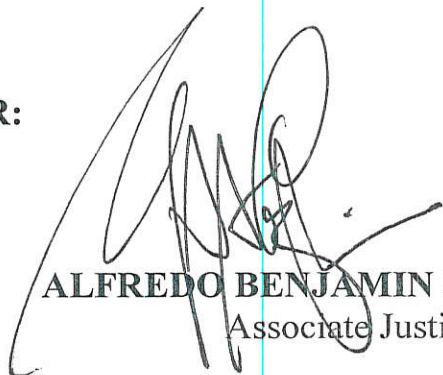
with interest at the rate of six percent (6%) per annum from finality of this Decision until fully paid.

SO ORDERED.

A handwritten signature in dark ink, appearing to read 'Diosdado M. Peralta', is written over the printed name and title.

DIOSDADO M. PERALTA
Chief Justice

WE CONCUR:



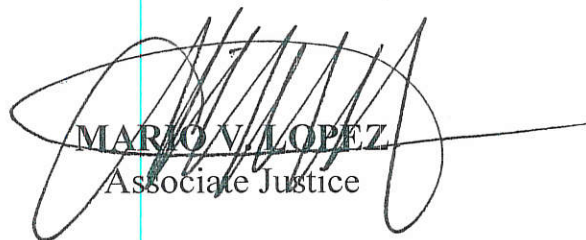
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



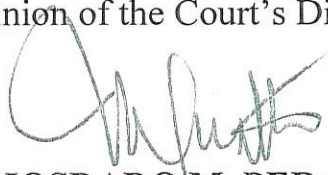
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice