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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 242682

Present:

- versus -

CARPIO, J., Chairperson,  
PERLAS-BERNABE,  
CAGUIOA,  
J. REYES, JR., and  
LAZARO-JAVIER, JJ.

NERISSA MORA a.k.a. NERI  
BALAGTA MORA and MARIA  
SALOME POLVORIZA,  
Accused,

Promulgated:

NERISSA MORA a.k.a. NERI  
BALAGTA MORA  
Accused-Appellant.

01 JUL 2019

*[Handwritten signature]*

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Nerissa Mora a.k.a. Neri Balagta Mora (Mora) assailing the Decision<sup>2</sup> dated June 25, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08255, which affirmed the Judgment<sup>3</sup> dated April 4, 2016 of the Regional Trial Court of Ligao City, Albay, Branch 13 (RTC) in Crim. Case No. 6668, convicting her and her co-accused, Maria Salome Polvoriza (Polvoriza) of Qualified Trafficking in Persons defined and penalized under Section 4 (e) in relation to Section 6 (a) of Republic Act No. (RA) 9208,<sup>4</sup> otherwise known as the "Anti-Trafficking in Persons Act of 2003."

<sup>1</sup> See Notice of Appeal dated July 16, 2018; *rollo*, pp. 22-23.  
<sup>2</sup> Id. at 2-21. Penned by Associate Justice Renato C. Francisco with Associate Justices Magdangal M. De Leon and Rodil V. Zalameda, concurring.  
<sup>3</sup> CA *rollo*, pp. 53-90. Penned by Presiding Judge Ignacio C. Barcillano, Jr.  
<sup>4</sup> Entitled "AN ACT TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION

### The Facts

This case stemmed from an Information<sup>5</sup> filed before the RTC, charging Mora and Polvoriza of the crime of Qualified Trafficking in Persons, the accusatory portion of which reads:

That on November 26, 2011 until July [5], 2012 in the Municipality of Polangui[,] Province of Albay, Philippines, within the jurisdiction of this Honorable Court, the above named accused, in conspiracy with one another, for purpose of exploitation, such as prostitution and other forms of sexual exploitation, did, then and there willfully, unlawfully and knowingly hire and maintain [AAA<sup>6</sup>] at [OTOY'S VIDEOKE] BAR at Barangay Sagrada, Buhi, Camarines Sur, and in pursuit of aforesaid conspiracy, said accused-Nerissa Mora, take said [AAA] at Barangay Itaran, Polangui, Albay and brought her to said [Otoy's] Videoke Bar, by way of deception and taking advantage of the vulnerability of said [AAA], as a minor; and accused-Maria Salome Polvoriza as manager/owner, did RECEIVE and EMPLOY said [AAA] as a prostitute in the said Videoke Bar, to her damage and prejudice.

That the crime was attended by the qualifying [circumstance] of minority, victim-[AAA], being 16<sup>7</sup> years of age.

ACTS CONTRARY TO LAW.<sup>8</sup>

The prosecution claimed that on November 26, 2011, Mora was able to convince AAA, then a minor, to come with her to Buraburan, Buhi, Camarines Sur. Upon arriving thereat, Mora left AAA at Otoy's Videoke Bar (Otoy's) owned by Polvoriza; thereafter, Polvoriza locked AAA inside a room therein, prohibited her from going out, and took her mobile phone and destroyed its SIM card. Polvoriza then made AAA work as an entertainer at Otoy's under the stage name "Rizza M. Rañada," forcing her to take *shabu*, dance naked, and even have sex with the customers. Eight (8) months later, AAA was able to escape from Polvoriza's custody and return to her father, to whom she narrated her ordeal. Her father then took AAA to the police

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AND SUPPORT OF TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS, AND FOR OTHER PURPOSES"; approved May 26, 2003.

<sup>5</sup> Records, pp. 1-2.

<sup>6</sup> The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.)

<sup>7</sup> The crime was committed when AAA was 15 until 16 years of age. (See Certificate of Live Birth; *id.* at 9).

<sup>8</sup> *Id.* at 1.

station to report the matter and also to a medico-legal, who, after examination,<sup>9</sup> confirmed, *inter alia*, that AAA sustained multiple hymenal lacerations which could have resulted from consensual and forcible sexual contact.<sup>10</sup>

In her defense, while Mora admitted knowing Polvoriza, she denied being close friends with her. She also averred that she and AAA had been close to each other and even treated the latter as her own sister. She then narrated that on November 26, 2011, AAA insisted that she accompany her to Buraburan, Buhi, Camarines Sur, to which Mora reluctantly agreed. Upon arrival thereat, AAA proceeded inside Otoy's and a few moments later returned outside to give her ₱200.00. Thereafter, she returned home. Finally, she claimed that when she first met AAA, she thought that the latter was already of age based on her physical appearance.<sup>11</sup>

For her part, Polvoriza maintained that she first saw AAA in the evening of November 26, 2011 when the latter went inside Otoy's, introduced herself as "Rizza M. Rañada," and expressed her desire to work therein. According to Polvoriza, she initially declined as she did not hire entertainers for her bar, but nonetheless, she let AAA stay because she was "nice." A few days later, AAA returned to Otoy's and handed her a pink card, which Polvoriza knew to be a health card secured by entertainers from health centers. Finally, Polvoriza claimed that she only learned of AAA's true identity when she was arrested in connection with the instant criminal case.<sup>12</sup>

### The RTC Ruling

In a Judgment<sup>13</sup> dated April 4, 2016, the RTC found Mora and Polvoriza guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced each of them to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱2,000,000.00. It also ordered them to jointly and severally pay AAA the amounts of ₱500,000.00 as moral damages and ₱100,000.00 as exemplary damages.<sup>14</sup>

The RTC found that the prosecution had proven beyond reasonable doubt that Mora and Polvoriza conspired with each other to take AAA, through deception and by taking advantage of her minority, to Otoy's where AAA was forced to become a sex worker who, among others, danced naked in front of male customers and was even coerced into having sex with them. In this regard, the RTC found immaterial AAA's purported voluntariness to

<sup>9</sup> See Medico-Legal Certificate dated July 12, 2012; *id.* at 8.

<sup>10</sup> See *rollo*, pp. 4-7. See also *CA rollo*, pp. 57-69.

<sup>11</sup> See *id.* at 7-8. See also *CA rollo*, pp. 75-76.

<sup>12</sup> See *id.* at 8-9. See also *CA rollo*, pp. 79-81.

<sup>13</sup> *CA rollo* at 53-90.

<sup>14</sup> *Id.* at 89.

work at Otoy's as claimed by both accused, pointing out that knowledge or consent on the part of minor victims is immaterial in cases of Human Trafficking.<sup>15</sup>

Aggrieved, Mora<sup>16</sup> and Polvoriza<sup>17</sup> separately appealed to the CA.

### **The CA Ruling**

In a Decision<sup>18</sup> dated June 25, 2018, the CA affirmed the RTC ruling with modification, imposing legal interest at the rate of six percent (6%) per annum on all monetary awards given to AAA, from finality of the ruling until full payment.<sup>19</sup> It held that the prosecution, through AAA's unimpeached testimony, had successfully established beyond reasonable doubt the existence of the elements of the crime charged.<sup>20</sup>

Hence, this appeal<sup>21</sup> filed by Mora. Notably, records do not show that Polvoriza made a similar appeal before the Court.

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not Mora's conviction for Qualified Trafficking in Persons should be upheld.

### **The Court's Ruling**

The appeal is without merit.

Section 3 (a) of RA 9208 defines the term "Trafficking in Persons" as the "recruitment, transportation, transfer or harboring, or receipt of persons **with or without the victim's consent or knowledge**, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs." The same provision further provides that "[t]he recruitment,

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<sup>15</sup> See id. at 81-89.

<sup>16</sup> See Notice of Appeal dated April 4, 2016; id. at 14.

<sup>17</sup> See Notice of Appeal dated April 4, 2016; id. at 15.

<sup>18</sup> *Rollo*, pp. 2-21.

<sup>19</sup> Id. at 20.

<sup>20</sup> See id. at 12-19.

<sup>21</sup> See Notice of Appeal dated July 16, 2018; id. at 22-23.

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.”<sup>22</sup> The crime of “Trafficking in Persons” becomes qualified when, among others, the trafficked person is a child.<sup>23</sup>

In this case, Mora and Polvoriza were charged with Qualified Trafficking in Persons under Section 4 (e) in relation to Section 6 (a) of RA 9208. Section 4 (e) of RA 9208 reads:

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

x x x x

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

As correctly ruled by the courts *a quo*, Mora and Polvoriza are guilty beyond reasonable doubt of the crimes charged as the prosecution had clearly established the existence of the elements<sup>24</sup> thereof, as seen in the following: (a) Mora, through deception and by taking advantage of AAA’s vulnerability as a minor, was able to “convince” the latter to go to Buraburan, Buhi, Camarines Sur; (b) upon arrival thereat, Mora took AAA to Polvoriza’s videoke bar, *i.e.*, Otoy’s, and left her there; and (c) since then and for the next eight (8) months, Polvoriza forced AAA to work as a prostitute in Otoy’s, coercing her to perform lewd acts on a nightly basis, such as dancing naked in front of male customers and even having sex with them. In this regard, the courts *a quo* correctly found untenable Mora and Polvoriza’s insistence that it was AAA who voluntarily presented herself to work as an entertainer/sex worker in Otoy’s, as trafficking in persons can still be committed even if the victim gives consent – most especially in cases where the victim is a minor: In this regard, case law instructs that “[t]he victim’s consent is rendered meaningless due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking. Even

<sup>22</sup> See *People v. XXX*, G.R. No. 235652, July 9, 2018.

<sup>23</sup> See Section 6 (a) of RA 9208 which provides:

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

(a) When the trafficked person is a child[.]

<sup>24</sup> For a successful prosecution of Trafficking in Persons, the following elements must be shown: (a) 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”; (b) 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 (c) 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.” (See *People v. Hirang*, 803 Phil. 277, 289 [2017], citing *People v. Casio*, 749 Phil. 458, 472-473 [2014]).

without the use of coercive, abusive, or deceptive means, a minor's consent is not given out of his or her own free will."<sup>25</sup>

In light of the foregoing, the Court finds no reason to deviate from the factual findings of the trial court, as affirmed by the CA, as there is no indication that it overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. In fact, the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same.<sup>26</sup> As such, Mora's (and Polvoriza's) conviction for Qualified Trafficking in Persons must be upheld.

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

Finally, the courts *a quo* correctly ordered them to pay AAA the amounts of ₱500,000.00 as moral damages and ₱100,000.00 as exemplary damages pursuant to prevailing jurisprudence.<sup>27</sup> Further, the Court deems it proper to impose on all monetary awards due to the victim legal interest at the rate of six percent (6%) per annum from finality of judgment until full payment.<sup>28</sup>

**WHEREFORE**, the appeal is **DENIED**. The Decision dated June 25, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08255 is **AFFIRMED**. As such, accused-appellant Nerissa Mora a.k.a. Neri Balagta Mora is found **GUILTY** beyond reasonable doubt of Qualified Trafficking in Persons defined and penalized under Section 4 (e) in relation to Section 6 (a) of Republic Act No. 9208, and accordingly, sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱2,000,000.00. She is likewise ordered to pay the victim, AAA, the amounts of ₱500,000.00 as moral damages and ₱100,000.00 as exemplary damages, both with legal interest at the rate of six percent (6%) per annum from the finality of this Decision until full payment.

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<sup>25</sup> *People v. Casio*, id. at 475-476.

<sup>26</sup> *Peralta v. People*, G.R. No. 221991; August 30, 2017, 838 SCRA 350, 360, citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

<sup>27</sup> See *People v. XXX*, supra note 22.

<sup>28</sup> See *People v. Jugueta*, 783 Phil. 806, 854 (2016).

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**SO ORDERED.**

*MA. Kent*  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

*Antonio Carpio*  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

*Alfredo Benjamin S. Caguioa*  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

*Jose C. Reyes, Jr.*  
**JOSE C. REYES, JR.**  
Associate Justice

*Amy C. Lazaro-Javier*  
**AMY C. LAZARO-JAVIER**  
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.

*Antonio Carpio*  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson, Second Division

**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*  
**LUCAS P. BERSAMIN**  
Chief Justice