



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-appellee,

G.R. No. 261134

Present:

-versus-

LEONEN, *J.*, Chairperson,
LAZARO-JAVIER,**
GAERLAN,**
LOPEZ, *J.*, and
KHO, JR., *JJ.*

ANABELLE YAMSON *y*
MONTERO a.k.a. "Mommy
Janice," and RANDY TACDA *y*
HUELAR a.k.a. "Biboy,"
Accused-appellants.*

Promulgated:

OCT 11 2023

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DECISION

LOPEZ, *J., J.:*

This Court resolves an appeal¹ from the Decision² of the Court of Appeals (CA), which affirmed with modification the Decision³ of the Regional Trial Court (RTC) convicting Anabelle Yamson y Montero a.k.a.

* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 9208, as amended by Republic Act No. 10364 and Republic Act No. 7610, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

** On official business.

*** Mario V. Lopez, *J.*, no part; Samuel H. Gaerlan, *J.*, designated additional member per Raffle dated March 21, 2023.

¹ *Rollo*, pp. 3-6.

² *CA rollo*, pp. 122-139. The July 8, 2019 Decision in CA-G.R. CR-HC No. 07023 was penned by Associate Justice Myra V. Garcia-Fernandez concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Geraldine C. Fiel-Macaraig of the Ninth Division, Court of Appeals, Manila.

³ *Rollo*, pp. 35-50. The August 6, 2014 Decision in Criminal Case Nos. R-QZN-13-05070-CR and R-QZN-13-05071-CR was penned by Presiding Judge Roslyn M. Rabara-Tria of Branch 94, Regional Trial Court, [REDACTED].

“Mommy Janice” (Anabelle), as principal, to the crime of qualified trafficking in persons, as penalized under Section 4(a), in relation to Sections 3(a)(c), 6(a)(c), and 10(e) of Republic Act (R.A.) No. 9208 or the “Anti-Trafficking in Persons Act of 2003,” as amended by R.A. No. 10364, as well as Randy Tacda y Huelar a.k.a. “Biboy” (Randy), as accomplice, under Section 4-B in relation to Section 10(c) of R.A. No. 10364, In addition, Anabelle was convicted for child abuse under Section 5(a) of R.A. No. 7610.

In an Information, Anabelle and Randy were charged with violation of R.A. No. 9208, as amended by R.A. No. 10364, the accusatory portion of which reads:

Criminal Case No. R-QZN-13-05070-CR

That on or about the 24th day of October 2013, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the accused Anabelle M. Yamson a.k.a. Mommy Janice, being the principal by direct participation, as the floor manager of Love Birds KTV Bar located along [REDACTED], took advantage of the vulnerability of victims [AAA261134], [BBB261134], and [CCC261134], and [DDD261134], and for the purpose of prostitution and sexual exploitation, did then and there, willfully, unlawfully and knowingly, hire and offer said victims to engage in prostitution through sexual services or lascivious conduct, in exchange for money, while accused Randy H. Tacda a.k.a. Biboy is being charged as an accomplice, his criminal participation is being deduced by knowingly aiding, abetting and cooperating with accused Anabelle M. Yamson a.k.a. Mommy Janice in the execution of the criminal design, to the damage and prejudice of the afore-said victims.

That the crime was attended by the qualifying circumstance of minority, [AAA261134], [BBB261134], and [CCC261134], all being seventeen (17) years of age, and in large scale, as it was committed against four (4) persons.

CONTRARY TO LAW.⁴

A separate Information was likewise filed against Anabelle for violation of R.A. No. 7610, the accusatory portion of which reads:

Criminal Case No. R-QZN-13-05071-CR

That on or about the 24th day of October 2013, and on dates prior thereto, in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, as the floor manager of Love Birds KTV Bar located along [REDACTED], took advantage of the innocence of victims [AAA261134], [BBB261134], and [CCC261134], all 17 years old then, and for the

⁴ Records, pp. 5-6.

purpose of sexual exploitation, did then and there willfully, unlawfully and knowingly, for profit and through deceit, promote, facilitate, induce, procure and employ said victims as Guest Relations Officers to engage in prostitution through sexual services or lascivious conduct, in exchange for money, to their damage and prejudice.

CONTRARY TO LAW.⁵

An *ex parte* Motion for Consolidation⁶ was filed by the prosecution since the cases were closely related and inextricably interwoven with one another. This was granted in an Order⁷ dated November 21, 2013.

On December 13, 2016, Anabelle and Randy entered a plea of not guilty to the charges against them.⁸ Pre-trial commenced, and trial on the merits ensued.

The prosecution presented the following witnesses: victims AAA261134, BBB261134, and CCC261134, Inter-Agency Council Against Trafficking (IACAT) agents Rugie Lito Gay (Rugie) and Paul Vincent M. Tamaray (Paul), National Bureau of Investigation (NBI) agent Orlando V. Enriquez (Orlando), and BBB261134's mother, EEE261134.

On the other hand, the defense presented the following as its witnesses: Anabelle, Randy, and Ma. Teresa Enderez (Ma. Teresa).

IACAT Technical Assistant Rugie testified that on October 22, 2013, they received an instruction from the Executive Officer of NBI-Anti Human Trafficking Division (NBI-AHTRAD), to conduct surveillance at Love Birds KTV Bar (Love Birds) located in [REDACTED], because it was allegedly engaged in trafficking of minors. Together with Paul, they went to Love Birds to conduct surveillance. Once there, they saw several women seated outside the bar together with Anabelle. Anabelle approached them and guided them to a table. Anabelle introduced herself as "Mommy Janice," took their orders, and offered them the use of very important person (VIP) rooms, where customers could have sex with the women working in the bar. She left for a while and when she returned, she brought along two women. The two women introduced themselves as sisters, whose names were AAA261134 and DDD261134, and were 17 and 19 years old, respectively. AAA261134 and DDD261134 pointed to Randy whom they called "Biboy," as the waiter and cashier of the bar. Anabelle again offered the use of a VIP room for PHP 850.00, which

⁵ *Id.* at 8-9.

⁶ *Id.* at 1-2.

⁷ *Id.* at 121.

⁸ *Id.* at 136.

Rugie declined and instead told Anabelle that they would just return on October 24, 2013.⁹

Rugie and Paul prepared a surveillance report,¹⁰ which they submitted to Atty. Dante B. Bonoan, Chief of NBI-AHTRAD. An entrapment and rescue operation was planned for October 24, 2013. On that day, Rugie and Paul returned as poseur customers and they were accompanied by other NBI agents and representatives from the Department of Social Welfare and Development (DSWD) and the International Justice Mission (IJM). Upon their arrival at Love Birds, Anabelle welcomed them and led them to a table. She brought AAA261134 and DDD261134 to their table and asked if they would avail themselves of the VIP rooms. Rugie accepted the offer but before he and AAA261134 could go to the VIP room, he sent a go signal to the team leader, Agent Basset Sarip. The rescue team arrived and went inside the bar. The women were taken into custody by the DSWD personnel. He executed a written statement¹¹ and identified “Mommy Janice” and “Biboy” as Anabelle and Randy, respectively.¹²

Intelligence Agent Paul of the IACAT corroborated the testimony of Rugie. On October 22, 2013, the team went to Love Birds to conduct surveillance where Anabelle offered women to be their partners, as well as the use of VIP rooms. They planned an entrapment and rescue operation on October 24, 2013, in which they were designated as poseur customers. When they arrived at Love Birds, Anabelle guided them to their table, brought two girls to be their partners, and asked if they would avail themselves of the VIP rooms. While Rugie and Anabelle were talking, the rescue team arrived and declared “Raid!” Seven women were rescued while Anabelle and Randy were arrested. He identified “Mommy Janice” and “Biboy” as Anabelle and Randy, respectively.¹³

AAA261134 testified that she was born on August 13, 1996,¹⁴ and she was 17 years old when she started working for Love Birds on October 22, 2013. She and her sister, DDD261134, were invited by her friend, Irene Pabay, who worked for Love Birds as a guest relations officer (GRO). She and her sister went to Love Birds where they met Anabelle, who was the floor manager of the bar. Anabelle asked if they wanted to work, and they accepted the offer. They started working immediately and sat outside the bar when two customers arrived. Anabelle called AAA261134 and DDD261134 and instructed them, “*mag-table ng customer.*” The customers ordered a drink and AAA261134 drank with them. They also started singing and one

⁹ TSN, February 12, 2014, pp. 14-31.

¹⁰ Records, p. 147.

¹¹ *Id.* at 145-146.

¹² TSN, February 12, 2014, pp. 32-39.

¹³ *Id.* at 65-77.

¹⁴ Records, p. 167.

of the customers placed his arm on her shoulder. When the customer was about to leave, he kissed AAA261134 on the lips. She received her earnings from a certain "Jun Rey," one of the waiters at Love Birds. On October 24, 2013, she was entertaining a customer when a person entered the bar and declared a raid. She was brought to the NBI office where she made a statement.¹⁵ She also identified Anabelle and Randy as "Mommy Janice" and "Biboy," respectively.¹⁶

BBB261134 testified that she was born on December 19, 1997,¹⁷ and used the name "[REDACTED]" while working at Love Birds. Her friend, Althea Cinco, brought her to Love Birds where she was introduced to "Daddy Jhon" and "Mommy Mae." BBB261134 was hired as a GRO and was told to sit outside the establishment so that customers could see her. The activities of a GRO include "*nakikipag-table*," "*nakikipagbar-find*," and "*nakikipag-VIP*." For "*nakikipag-table*," she would talk and drink with a customer and if the customer got drunk, she would allow him to kiss her cheeks and lips and touch her buttocks and breasts. She would then earn PHP 50.00 as a commission for every bottle of beer. For "*nakikipag-VIP*," she would have sex with a customer on the second floor of the bar where the VIP rooms are located. She would earn PHP 280.00 for a "VIP" service. Finally, for "*nakikipagbar-find*," customers would bring her to hotels to have sex. She would earn PHP 900.00 for a "bar find" service. She said that it was the floor manager, Anabelle, who would introduce the girls to the customers. Anabelle would tell the customers, "*Si [REDACTED] po ito, Boss. Dalaga pa po ito.*" Randy, who is the waiter at Love Birds, would give BBB261134 her salary for the day. On the night of October 24, 2013, she was at Love Birds when the NBI agents came. She was brought to the NBI office where she gave her statement.¹⁸ She identified Anabelle and Randy as "Mommy Janice" and "Biboy" respectively.¹⁹

CCC261134 testified that she was born on July 25, 1996,²⁰ and she was 17 years old when she started working at Love Birds on September 2, 2013. Her classmate, Hashimoto Yamson, introduced her to his mother, Anabelle, who worked as a floor manager for Love Birds since CCC261134 needed financial support for her studies. She was employed as a GRO and was told to wear shorts and *sando* to entice customers. She corroborated BBB261134's testimony that her activities were "*nagti-table*," "*nagbi-VIP*," and "*nugpapabar-find*." It was also Anabelle who would assign her to customers. "Anabelle would tell the customers, "*Bata pa daw po, dalaga, wala pa daw pong anak, at sariwa pa po.*" She would get her salary from Randy each time she went home. On October 24, 2013, she was with a

¹⁵ *Id.* at 154-157.

¹⁶ TSN, January 29, 2018, pp. 119-126.

¹⁷ Records, p. 169.

¹⁸ *Id.* at 159-161, 163-165.

¹⁹ TSN, January 24, 2014, pp. 7-35.

²⁰ Records, p. 166.

customer at Love Birds when somebody shouted “Raid!” NBI agents went inside, and she was brought to the NBI office where she gave her statement.²¹ She also identified Anabelle and Randy as “Mommy Janice” and “Biboy,” respectively.²²

EEE261134 testified that she is the mother of BBB261134, and acknowledged the error made by the midwife in the entry of BBB261134’s name and gender in the certificate of live birth. A baptismal certificate²³ and diploma²⁴ were also presented to prove that her daughter was using the name “██████” instead of ██████.²⁵

Special Investigator Orlando of the NBI-AHTRAD corroborated the testimony of Rugie and Paul. On October 22, 2013, their office received information from the IJM that Love Birds was engaged in the trafficking of minors. Rugie and Paul were dispatched to conduct surveillance and undercover operations. Upon confirming that Love Birds was engaged in the trafficking of minors, their office planned a rescue operation on October 24, 2013. They were able to rescue seven women and were able to arrest Anabelle and Randy. They prepared a Joint Affidavit of Arrest²⁶ and an Inventory of Seized Items.²⁷ “Mommy Janice” and “Biboy” were identified as Anabelle and Randy, respectively.²⁸

On the part of the defense, Anabelle denied the accusations against her. She testified that on October 22, 2013, she was at home. On the night of October 24, 2013, she was outside Love Birds since she wanted to apply as a “waitress.” Suddenly, someone grabbed her and pointed a gun at her. She was pushed to the ground, prompting her to ask, “*Why did you do that to me[?]*” The person answered that they were from the NBI and brought her inside Love Birds. They took pictures of her together with the women inside. They brought her and a waiter to the NBI office where they took her fingerprints and pictures. She denied knowing the waiter, the women inside the bar, and “Mommy Janice.” She was only informed that she was being charged with human trafficking when she was already imprisoned at the NBI office.²⁹

Randy likewise denied the charges against him. He testified that he worked as a waiter at Love Birds. His duties were to open the bar and serve

²¹ *Id.* at 149–152.

²² TSN, January 29, 2018, pp. 70–91.

²³ Records, p. 207.

²⁴ *Id.* at 208.

²⁵ TSN, February 26, 2014, pp. 11–26.

²⁶ Records, pp. 142–144.

²⁷ *Id.* at 170.

²⁸ TSN, March 12, 2014, pp. 5–30.

²⁹ TSN, May 21, 2014, pp. 3–18.

liquor. When the cashier was not around, he would handle the money and would sometimes give the salaries to the women employed at Love Birds. On the night of October 24, 2013, Randy was at Love Birds assisting customers who wanted to sing. Suddenly, NBI agents arrived and placed money in the case box. He was then punched in the chest when he asked why they placed money in the box. The NBI agents took pictures and brought him, Anabelle, and the rescued women to the NBI office. Randy denied knowing Anabelle whom he saw for the first time on October 24, 2013. It was only at the NBI office that he learned that he was being charged with human trafficking.³⁰

Ma. Teresa testified that she worked at Love Birds as a bar worker. On October 24, 2013, she was outside Love Birds and was able to leave the place when the apprehension happened. She denied knowing Anabelle or “Mommy Janice.” However, she knew Randy by his alias “Biboy.”³¹

On August 6, 2014, the RTC rendered its Decision³² convicting Anabelle and Randy of the crime of qualified trafficking under R.A. No. 9208, as amended, and child abuse under Section 5(a) of R.A. No. 7610, the dispositive portion of which reads:

WHEREFORE, premises considered, in Criminal Case No. R-QZN-13-05070, judgment is hereby rendered finding accused Anabelle Yamson y Montero a.k.a. Mommy Janice guilty beyond reasonable doubt of qualified trafficking in persons under Section 4(a), in relation to Sections 3(a)(c), 6(a)(c) and 10(e), and Section 4-B, in relation to Section 10(c) of Republic Act No. 10364, amending Republic Act No. 9208, and she is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Two Million Pesos and to pay the costs.

Accused Randy Tacda y Huelar a.k.a. Biboy is likewise found guilty beyond reasonable doubt as accomplice for qualified trafficking in persons under Section 4(a), in relation to Sections 3(a)(c), 6(a)(c) and 10(e), and Section 4-B, in relation to Section 10(c) of Republic Act No. 10364, amending Republic Act No. 9208 and he is hereby sentenced to suffer the penalty of Fifteen (15) years of imprisonment and to pay a fine of [PHP] 500,000.00 and to pay the costs.

Accused Yamson and Tacda are further ordered to pay, jointly and severally, private complainants AAA[261134], BBB[261134], CCC[261134], and DDD[261134], [PHP] 500,000.00 each as moral damages and [PHP] 100,000.000 each as exemplary damages.

In Criminal Case No. R-QZN-13-05071, accused Anabelle Yamson y Montero a.k.a. Mommy Janice is found guilty beyond reasonable doubt of the crime of child abuse under Section 5(a) of Republic Act No. 7610,

³⁰ TSN, May 28, 2014, pp. 25–39.

³¹ *Id.* at 3–10.

³² *Rollo*, pp. 35–50.

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as amended[,] and she is hereby sentenced to suffer the penalty of Eight (8) Years and One (1) Day of *prision mayor* as minimum, to Fourteen (14) Years, Eight (8) months and One (1) day of *reclusion temporal* as maximum and to pay the cost.

SO ORDERED.³³

Aggrieved, Anabelle and Randy appealed to the CA.

On July 8, 2019, the CA issued the assailed Decision,³⁴ which affirmed with modification Anabelle and Randy's conviction, the dispositive portion of which reads:

WHEREFORE, the appeal is **DENIED**. The decision of the Regional Trial Court of [REDACTED], Branch 94 in Criminal Cases Nos. R-QZN-13-05070-CR and R-QZN-13-05071-CR dated August 6, 2014 is **AFFIRMED with MODIFICATION**. In Criminal Case No. R-QZN-13-05070-CR, accused-appellant Anabelle Yamson y Montero a.k.a. "Mommy Janice" is found guilty beyond reasonable doubt of qualified trafficking in persons under Section 4(a), in relation to Sections 3(a)(c), 6(a)(c) and 10(e) of [R.A.] No. 10364, and is sentenced to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos ([PHP] 2,000,000.00). In the same case, accused-appellant Randy Tacda y Huelar a.k.a. "Biboy" is found guilty beyond reasonable doubt as accomplice of qualified trafficking in persons under Section 4-B, in relation to Section 10(c) of [R.A.] No. 10364, and is sentenced to suffer the penalty of fifteen (15) years of imprisonment and to pay a fine of Five Hundred Thousand Pesos ([PHP] 500,000.00).

Accused-appellants are further ordered to pay, jointly and severally, private complainants AAA[261134], BBB[261134], CCC[261134], and DDD[261134], Five Hundred Thousand Pesos ([PHP] 500,000.00) each for moral damages and One Hundred Thousand Pesos ([PHP] 100,000.00) each for exemplary damages.

In Criminal Case No. R-QZN-13-05071-CR, accused-appellant Anabelle Yamson y Montero a.k.a. "Mommy Janice" is found guilty beyond reasonable doubt of child abuse under Section 5(a) of R.A. No. 7610, and is sentenced to suffer the penalty of eight (8) years and one (1) day of *prision mayor* medium as minimum to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal* as maximum. Accused-appellant shall pay private complainants Fifty Thousand Pesos ([PHP] 50,000.00) each as civil indemnity. They shall also pay interest on all monetary awards for damages in both cases at the rate of six percent (6%) per annum from the date of finality of this decision until fully paid.

IT IS SO ORDERED.³⁵ (Emphasis in the original)

³³ *Id.* 49-50.

³⁴ *CA rollo*, pp. 122-139.

³⁵ *Id.* 137-138.

Hence, this appeal.

Issue

This Court resolves whether Anabelle Yamson y Montero a.k.a. “Mommy Janice” and Randy Tacda y Huelar a.k.a. “Biboy” are guilty of qualified trafficking in persons and child abuse.

This Court’s Ruling

The appeal has no merit.

The pertinent provisions of R.A. No. 9208, as amended by R.A. No. 10364, pertaining to trafficking of children, are as follows:

SECTION 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.

(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.

....

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

(a) To recruit, 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 *People v. Casio*,³⁶ this Court enumerated the elements of trafficking in persons under its expanded definition in R.A. No. 10364:

- (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 (Citation omitted)

“The gravamen of the crime of human trafficking is not so much the offer of a woman or child; it is the act of recruiting or using, with or without consent, a fellow human being for sexual exploitation.”³⁸

In the instant case, the prosecution was able to establish the presence of all the elements of the offense. The testimonies of AAA261134, BBB261134, and CCC261134 showed that Anabelle engaged them to render sexual services in exchange for money.

As to the first element, AAA261134 and CCC261134 testified that Anabelle was the floor manager at Love Birds. They referred to her as “Mommy Janice” who hired them as GRO. It was Anabelle who told AAA261134 and CCC to entertain customers.

Testimony of CCC261134

Q: So, Ms. Witness, you said that you started working at Love Birds on September 2, 2013, can you tell this court who you met the first time you went to Love Birds at that date?

A: Mommy Janice, sir.

Q: And what happened after you met Mommy Janice on that date (September 2, 2013).

Court: (to the witness)

³⁶ 749 Phil. 458 (2014) [Per J. Leona, Second Division].

³⁷ *Id.* at 472–473.

³⁸ *People v. Rodriguez*, 818 Phil 525, 639–640 (2017) [Per J. Martires, Third Division].

Q: Wait, how did you come to know about this Mommy Janice in the first place?

A: She was introduced to me by her son, sir.

Atty. Eballe (to the witness)

Q: After you were introduced to Mommy Janice, what happened or what did you talk about?

A: She asked me if I drink "*Kung malakas ako uminom*".

Q: Did Mommy Janice ask you how old you were?

A: No, sir.

Q: As far as you know Ms. Witness, what was the position of Mommy Janice at Love Birds?

A: Floor Manager, sir.

Q: How did you know that Ms. Witness that Mommy Janice was the floor manager?

A: His [sic] son told me, sir.

Q: Ms. Witness, did you start working that very day, September 2, 2013?

A: Yes, sir.

Q: So, what did you do during that first night, if you can still remember?

A: "*Pina-table niya po ako*", sir.

Q: Ms. Witness, can you tell this court what was your work at Love Birds KTV?

A: GRO, sir.³⁹

Testimony of [AAA261134]

Q: And what happened when you first met Mommy Janice?

A: She just asked us if we want to work there, sir.

Q: And did Mommy Janice ask you how old you were and your sister?

A: No, sir.

Q: What did Mommy Janice tell you about what your work was going to be in Love Birds?

A: She did not tell us anything. She just told us to start working, sir.

Q: When you started working that very day, what happened, could you tell this court what happened? What did you do?

A: My sister and I sat down outside, and then when two (2) customers arrived, Mommy Janice called for us and told us "*mag-table ng customer*", sir.⁴⁰

³⁹ TSN, January 29, 2014, pp. 76-78.

⁴⁰ *Id.* at 118-119.

As to the second element, BBB261134 testified that Anabelle coerced her to have sex with a customer while CCC261134 testified that she only worked at Love Birds since she needed money to support her studies. Finally, AAA261134 testified that she and her sister, DDD261134, were invited by a certain "Irene" who worked at Love Birds. When they arrived at Love Birds, Anabelle told them to start working immediately in exchange for money:

Testimony of BBB261134:

Q: Ms. Witness, you mentioned that you worked at Love Birds because you wanted to buy gadgets. Was there any other needs aside from gadgets? Did you have other needs aside from gadget?

A: No more, sir. I just want to go along with the fad. *Naudyokan lang po ako ng floor manager, sir.*

Q: And you also mentioned, Ms. Witness that "*naudyokan ka lang ng floor manager?*", what did the floor manager say to "*udyok*" you?

A: "*Sige na, pumayag ka na, magpa-VIP, mabait naman yan e at saka matagal ko ng kilala yan.*"

Atty. Eballe: No more questions, your honor.

Court (to the witness)

Q: Who is the floor manager who told you that?

A: My first employer, it was Mommy Jenny, sir but in my second employer it was Mommy Janice.⁴¹

Testimony of BBB261134:

Q: Now Ms. Witness, as a GRO, you also mentioned that you were doing "VIP", what does this mean, Ms. Witness?

A: That is when we have sex with customers inside the bar, sir.

Q: Now Ms. Witness, you mentioned a while ago that when your classmate Hashimoto Yanson invited you or in your words "forced you" to work at Love Birds that your job would only be "*inom*" or to drink, so; how did you end up doing "VIP"?

A: The first night I worked there, the customer told me "*mag-VIP tayo*" and when I asked "Mommy Janice what is that "VIP? [sic] she said "to have sex with the customer", sir.

Q: What was your reaction when Mommy Janice told you that "VIP" was having sex with a customer?

A: I was surprised, sir.

Q: Why did you agree to do "VIP"?

A: Because I need money to support my studies, sir.⁴²

⁴¹ *Id.* at 67-68.

⁴² *Id.* at 83-84.

Testimony of AAA261134:

Q: So Ms. Witness, how did you come to work for Love Birds

A: We were just invited by our friends, sir.

Q: You mentioned “we”, Ms. Witness, who were with you when you were invited by your friend?

A: My older sister, sir.

Q: And who was this friend who invited you?

A: Irene Pabay, sir.

Q: What is the name of your sister?

A: ██████████, sir.⁴³

.....

Q: And what happened when you first met Mommy Janice?

A: She just asked us if we want to work there, sir.

Q: And did Mommy Janice ask you how old you were and your sister?

A: No, sir.

Q: What did Mommy Janice tell you about what your work was going to be in Love Birds?

A: She did not tell anything. She just told us to start working, sir?

Q: When you started working that very day, what happened, could you tell this court what happened? What did you do?

A: My sister and I sat down outside, and then when two (2) customers arrived, Mommy Janice called for us and told us “*mag-table ng customer*”, sir.⁴⁴

.....

Atty. Eballle (to the witness)

Q: And how much were you paid for sitting with a customer?

A: [PHP] 250.00, sir.

Q: How did you earn those [PHP] 250.00

A: Because I was able to drink five (5) bottles, sir.⁴⁵

In this case, Anabelle employed coercion and payment of money to secure the consent of the victims for the purpose of prostitution.

Furthermore, Anabelle was able to take advantage of AAA261134, BBB261134, and CCC261134’s vulnerability considering that they were

⁴³ *Id.* at 117.

⁴⁴ *Id.* at 118–119.

⁴⁵ *Id.* at 121.

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minors when they started working at Love Birds. The Informations⁴⁶ alleged the minority of the victims which the prosecution was able to prove by the presentation of their respective birth certificates.⁴⁷

As to the third element, it has been established that the purpose of trafficking is for prostitution. Section 3(c) of R.A. No. 9208 defined the meaning of prostitution as:

SECTION 3. *Definition of Terms.* – As used in this Act:

....

(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.

BBB261134 testified that as a GRO, she would entertain customers while allowing herself to be kissed and touched, have sex with customers inside a private room located on the second floor of the bar, and have sex with customers at the hotel in exchange for money. She attested to the work performed at Love Birds:

Q: You said that it depends, so what did you do at Love Birds nightly?

A: “*Nakikipag-table po*”, “*nakikipag-bar find*” po at saka “*nakikipag-VIP*” po, sir.

Q: Ms. Witness, you mentioned “table”, what does this mean, Ms. Witness?

A: Talked to customers, sir.

Q: While you were talking with customers, what [did] you do?

A: We drink with them, sir.

Q: What else happened if any?

A: If the customer gets drunk, they will touch “*nanghihipo*” and they kiss me “*nanghahalik*” sir.

Q: Ms. Witness, you mentioned that the customer kisses you and touches you, would you mind telling this court where the customer kisses you and which part of your body the customer touches?

Court: One question at a time. *Saan ka daw hinahalikan? Sabi hinahalikan kapag lasing na.*

A: Sometimes on my cheeks and sometimes on my lips, sir.

⁴⁶ Records, pp. 5–10.

⁴⁷ *Id.* at 166–169.

Atty. Eballo (to the witness)

Q: What about touching, Ms. Witness, where did the customer usually touch you?

A: With my buttocks and my breasts, sir.

Q: Ms. Witness, how did you feel when the customer kissed you and touched your private parts?

A: I just let it be because I need the money, sir.

Q: So, Ms. Witness, who gave you a customer for "table"?

A: Mommy Janice, sir.⁴⁸

....

Q: Now, Ms. Witness, how much were you paid when you were doing this "table"?

A: They pay [PHP] 180.00 per drink and out of the [PHP] 180.00 we are given [PHP] 50.00, sir.⁴⁹

....

Q: Now Ms. Witness, as part of your job (GRO) you mentioned "VIP" as also part of your work, could you tell this Court, what "VIP" means?

A: *Pakikipag-sex po sa customer*, sir.

Q: Where do you do this, Ms. Witness, "*pakikipag-sex sa customer*"?

A: Upstairs, in (sic) the second floor of the bar because the bar is a 2-storey place, sir.⁵⁰

....

Q: And how much was your payment for this "VIP" service?

A: The payment is Php800.00, sir and out of that I get [PHP] 280.00, sir.

Q: To whom did the customer pay [PHP] 800.00?

A: Mommy Janice, sir.⁵¹

....

Q: Now Ms. Witness, you also mentioned that as part of the things that you did being a GRO is a "bar find", could you explain to this court what a "bar find" is?

A: That is where we have sex outside. They will bring us to hotels where we have sex, sir.

Q: Who gave you a customer for this "bar find", Ms. Witness?

A: Mommy Janice also, sir.

⁴⁸ TSN, January 29, 2014, pp. 20-22.

⁴⁹ *Id.* at 23.

⁵⁰ *Id.* at 25.

⁵¹ *Id.* at 26-27.

- Q: And Ms. Witness, how much was your payment for doing this “bar find[?]”
- A: The payment is [PHP] 1,500.00 and we get [PHP] 900.00, sir.
- Q: Now, Ms. Witness, you mentioned that the payment was [PHP] 1,500.00, who did the customer give this payment to?
- A: Mommy Janice, sir.⁵²

The testimonies of the victims that they were sexually exploited were corroborated by Rugie and Paul who conducted the rescue operation. They acted as customers while Anabelle offered women to be their partners. Anabelle also offered to them the use of VIP rooms for sexual services by any of the women working at the bar. Succinctly, all the elements of trafficking in persons were present.

In addition, the factual circumstance of the case qualifies the trafficking committed by Anabelle. 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;

.....

(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[.]

As such, the offense is qualified when the person trafficked is a child or it is committed in large scale as when it is committed against three or more persons, individually or as a group. Here, the minority of the victims was alleged in the Information⁵³ and was sufficiently established by the prosecution through the presentation of their respective certificates of live birth.⁵⁴ Likewise, irrespective of the age of the victims, the offense was committed in large scale because it was committed against three or more persons.

In the instant case, Anabelle must be liable for qualified trafficking.

As to the liability of Randy, Section 4-B of R.A. No. 10364 provides:

⁵² *Id.* at 27–28.

⁵³ Records, pp. 5–10.

⁵⁴ *Id.* at 166–167, 169

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SECTION 4-B. *Accomplice Liability*. – Whoever knowingly aids, abets, cooperates in the execution of the offense by previous or simultaneous acts defined in this Act shall be punished in accordance with the provisions of Section 10(c) of this Act.

An accomplice in human trafficking is one who knowingly aids, abets, and cooperates in the execution of the offense. According to BBB261134, it was Randy who would give them their salary each time they went home. This was corroborated by CCC261134 who testified that she received her salary from a certain “Biboy.” BBB261134 testified:

Q: Ms. Witness you have mentioned that you have a commission of [PHP] 50.00 out of the [PHP] 180.00, the price of the drink, from whom did you receive this payment of [PHP] 50.00 per drink?

A: From Biboy, sir.

Q: Ms. Witness, you mentioned a certain “Biboy”, who is this “Biboy”?

A: He is the one who is giving our salaries, sir.

Q: As far as you know Ms. Witness, what is the role of Biboy in Love Birds, sir. What does Biboy do at Love Birds?

A: He is a waiter there[,] but he is also the one who is giving our salaries, sir.

Q: So, Ms. Witness, when does Biboy give you this payment?

A: Everytime we go home at 4:00 o'clock in the morning [sic], sir.⁵⁵

This fact was even admitted by Randy in his testimony that whenever the cashier was not around, he would give the women their salaries:

Q: Now, how about the earnings of the Lovebirds KTV Bar, who handles the money?

A: The Cashier is not yet around. I held the money, sir, because the owner and the cashier arrived late at night, sir.

Q: Now, who pays the waitresses their salaries?

A: If they are in a hurry to go home, sir, they ask for their salaries from me, sir.

Q: When you give them their salaries, how do you compute the amount that you will give them?

A: It's just easy sir, because for every bottle, they just have [PHP] 50.00, sir.

Q: Now, do you know any other activity done by the waitresses aside from being tabled by the customers?

A: None, sir.⁵⁶

⁵⁵ TSN, January 29, 2014, pp. 24-25

⁵⁶ TSN, May 28, 2014, pp. 38-39.

While Randy was employed as a waiter at Love Birds, he was also in charge of paying commissions to the victims. Knowing the nature of the business of Love Birds as well as the acts performed by the victims, Randy's action would show that he knowingly aided and cooperated with Anabelle in the commission of the offense.

Here, Randy must be liable as an accomplice for qualified trafficking.

In contrast to the victims' direct, positive, and categorical testimonies and their identification of Anabelle and Randy as the floor manager and waiter at Love Birds, Anabelle and Randy merely interposed the defense of denial. It is settled that "mere denial cannot prevail over the positive testimony of a witness. The defense of denial is treated as self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters."⁵⁷

Considering that the qualifying circumstance of minority and the fact of commission of the offense in large scale were alleged in the Information and proved during trial, the RTC and the CA did not err in convicting Anabelle and Randy for qualified trafficking in persons as principal and accomplice, respectively.

In addition, Anabelle was charged with and convicted of child prostitution under Section 5(a) of R.A. No. 7610, which states:

SECTION 5. *Child Prostitution and Other Sexual Abuse.* – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

- (a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:
 - (1) Acting as a procurer of a child prostitute;
 - (2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
 - (3) Taking advantage of influence or relationship to procure a child as prostitute;

⁵⁷ *People v. Camariño*, 892 Phil. 198, 204 (2020) [Per J. Hernando, Third Division]. (Citation omitted)

- (4) Threatening or using violence towards a child to engage him as a prostitute; or
- (5) Giving monetary consideration goods or other pecuniary benefit to a child with intent to engage such child in prostitution.

In *Malto v. People*,⁵⁸ the elements of Section 5(a) of R.A. No. 7610 were enumerated as follows:

1. the accused engages in, promotes, facilitates or induces child prostitution;
2. the act is done through, but not limited to, the following means:
 - a. acting as a procurer of a child prostitute;
 - b. inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
 - c. taking advantage of influence or relationship to procure a child as a prostitute;
 - d. threatening or using violence towards a child to engage him as a prostitute or
 - e. giving monetary consideration, goods or other pecuniary benefit to a child with intent to engage such child in prostitution.
3. the child is exploited or intended to be exploited in prostitution; and
4. the child, whether male or female, is below 18 years of age.⁵⁹

Section 3(a) of R.A. No. 7610 defines a child as:

(a) "Children" refers to person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition[.]

Section 5(a) of R.A. No. 7610 punishes acts pertaining to or connected with child prostitution wherein the child is abused primarily for profit.⁶⁰ As earlier discussed, it was Anabelle who offered AAA261134, BBB261134, and CCC261134 to customers of Love Birds in exchange for money. The act of hiring the victims and offering their sexual services in exchange for money makes Anabelle liable under R.A. No. 7610. The

⁵⁸ 560 Phil 119 (2007) [Per J. Corona, First Division].

⁵⁹ *Id.* at 134.

⁶⁰ *Quimvel v. People*, 808 Phil. 889, 917 (2017) [Per J. Velasco, Jr., *En Banc*].

prosecution was also able to establish the age of the victims at the time of the commission of the offense. The victims also positively identified Anabelle as their employer at Love Birds.

As to the penalty, Sections 10(c) and 10(e) of R.A. No. 9208, as amended by R.A. No. 10364, provide the penalty for qualified trafficking:

SECTION 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 Section 4-B of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than five hundred thousand pesos ([PHP] 500,000.00) but not more than one million pesos ([PHP] 1,000,000.00);

....

(e) 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 ([PHP] 2,000,000.00) but not more than five million pesos ([PHP] 5,000,000.00)[.]

The CA and the RTC correctly imposed the penalty of life imprisonment and a fine of PHP 2 million against Anabelle, and imprisonment of 15 years and a fine of PHP 500,000.00 against Randy. As to the civil liability, in *People v. Lalli*,⁶¹ this Court awarded moral damages in the amount of PHP 500,000.00 and exemplary damages in the amount of PHP 100,000.00. Hence, Anabelle and Randy are also jointly and severally liable for the payment of moral damages in the amount of PHP 500,000.00 and exemplary damages in the amount of PHP 100,000.00 to each of the victims named in the Information:

As to the penalty prescribed under Section 5 of R.A. No. 7610, the provision provides *reclusion temporal* in its medium period, which ranges from 14 years, eight months, and one day to 17 years and four months, to *reclusion perpetua*, as the penalty to be imposed.

Applying the Indeterminate Sentence Law,⁶² in the absence of mitigating or aggravating circumstances, the minimum term of the indeterminate penalty shall be taken within the range of the penalty next

⁶¹ 675 Phil. 126, 158-159 (2011) [Per J. Carpio, Second Division].

⁶² An Act To Provide For An Indeterminate Sentence And Parole For All Persons Convicted Of Certain Crimes By The Courts Of The Philippine Islands; To Create A Board Of Indeterminate Sentence And To Provide Funds Therefor; And For Other Purposes, also known as ACT NO. 4103 (1993), as amended.

lower in degree, which is *prision mayor* in its medium period, to *reclusion temporal* in its minimum period, or from eight years and one day to 14 years and eight months. The maximum term of the sentence shall be taken from the medium period of the prescribed penalty, or from 17 years, four months, and one day to 20 years.

Thus, the CA correctly imposed the indeterminate penalty of imprisonment ranging from a period of eight years and one day of *prision mayor*, as minimum, to 17 years, four months, and one day of *reclusion temporal*, as maximum.

As to the award of damages, this Court in *People v. Dulay*⁶³ awarded the amount of PHP 50,000.00 as civil indemnity, “consistent with the objective of R.A. No. 7610 to afford children special protection against abuse, exploitation, and discrimination and with the principle that every person who contrary to law, willfully or negligently causes damage to another shall indemnify the latter for the same.”⁶⁴

All awards for civil liability shall earn interest at the rate of 6% per annum from the finality of this Decision until full payment.

ACCORDINGLY, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated July 8, 2019 in CA-G.R. CR-HC No. 07023 is **AFFIRMED**.

In Criminal Case No. R-QZN-13-05070-CR, Anabelle Yamson y Montero a.k.a. “Mommy Janice” is found **GUILTY** of qualified trafficking in persons under Section 4(a), in relation to Sections 3(a)(c), 6(a)(c), and 10(e) of Republic Act No. 10364, amending Republic Act No. 9208, and is sentenced to suffer the penalty of life imprisonment, and to pay a fine in the amount of PHP 2,000,000.00. Randy Tacda y Huelar is also found **GUILTY** as an accomplice to the offense of qualified trafficking in persons under Section 4-B, in relation to Section 10(c) of Republic Act No. 10364, amending Republic Act No. 9208, and is sentenced to suffer the penalty of 15 years of imprisonment and to pay a fine in the amount of PHP 500,000.00. They are also jointly and severally **ORDERED** to **PAY** the victims the amounts of PHP 500,000.00 as moral damages and PHP 100,000.00 as exemplary damages.

In Criminal Case No. R-QZN-13-05071-CR, Anabelle Yamson y Montero a.k.a. “Mommy Janice” is found **GUILTY** of child abuse under

⁶³ 695 Phil 742 (2012) [Per J. Peralta, Third Division].

⁶⁴ *Id.* at 761.

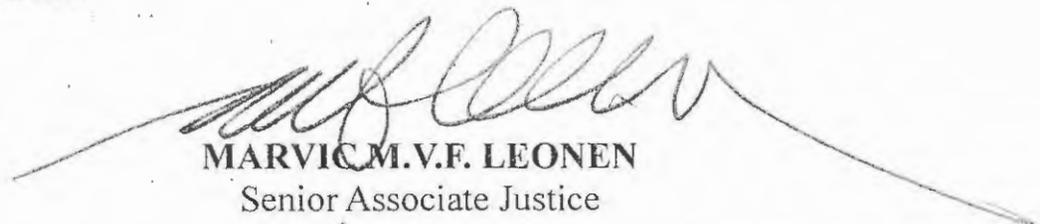
Section 5(a) of Republic Act No. 7610 and sentenced to suffer an indeterminate penalty of eight years and one day of *prision mayor*, as minimum, to 17 years, four months, and one day of *reclusion temporal*, as maximum. She is also **ORDERED** to **PAY** the victims the amount of PHP 50,000.00 each as civil indemnity.

All awards for civil liability shall earn interest at the rate of 6% per annum from the finality of this Decision until full payment.

SO ORDERED.


JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice

On official business
AMY C. LAZARO-JAVIER
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

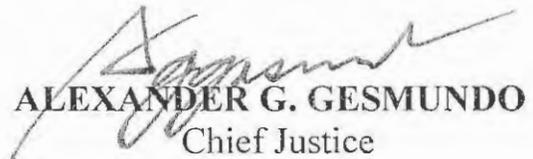
ATTESTATION

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.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second 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