



Republic of the Philippines  
 Supreme Court  
 Manila  
 FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
 Plaintiff-Appellee,

G.R. No. 229514

Present:

- versus -

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

ESMERALDO "JAY" AMURAO  
 y TEJERO,  
 Accused-Appellant.

Promulgated:

JUL 28 2020

X-----X

DECISION

CAGUIOA, J.:

Subject of this appeal<sup>1</sup> is the Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR.-HC. No. 06499 promulgated on December 21, 2015 which affirmed the Decision<sup>3</sup> of the Regional Trial Court (RTC), Angeles City, Branch 59, convicting accused-appellant Esmeraldo "Jay" Amurao y Tejero (Amurao) and his co-accused Marlyn "Lyn" Dizon Valencia (Valencia), of violation of Republic Act No. (RA) 9208 or the Anti-Trafficking in Persons Act of 2003.<sup>4</sup>

Facts

On February 22, 2013, Amurao and Valencia were charged with Trafficking in Persons under five (5) separate sets of Information<sup>5</sup> quoted below:

<sup>1</sup> Rollo, pp. 24-25.

<sup>2</sup> Id. at 2-23. Penned by Associate Justice Elihu A. Ybañez with the concurrence of Associate Justices Magdangal M. De Leon and Victoria Isabel A. Paredes.

<sup>3</sup> CA rollo, pp. 41-90. Penned by Presiding Judge Ma. Angelica T. Paras-Quiambao.

<sup>4</sup> AN ACT TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS, AND FOR OTHER PURPOSES (2003).

<sup>5</sup> Records, pp. 1, 53, 106, 157, 208.

**[CRIMINAL CASE NO. 13-9736]**

That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, by means of fraud, deception, abuse of power and for the purpose of promoting trafficking in persons and taking advantage of the vulnerability of AAA,<sup>6</sup> was (*sic*) recruit, hired, harbored said AAA for the purpose of exploitation, such as prostitution and other forms of sexual exploitations and forced labor services, slavery and servitude and engaged said AAA into prostitution and other forms of sexual exploitation.

CONTRARY TO LAW.<sup>7</sup>

**[CRIMINAL CASE NO. 13-9737]**

That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, by means of fraud, deception, abuse of power and for the purpose of promoting trafficking in persons and taking advantage of vulnerability of BBB, 17 years old, for the purpose of exploitation, slavery, under the pretext of employment, did then and there willfully, unlawfully and feloniously recruit said complainant/victim to work as a prostitute, and subjecting the above-mentioned victim to sexual exploitation, to her damage and prejudice.

CONTRARY TO LAW.

**[CRIMINAL CASE NO. 13-9738]**

That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, by means of fraud, deception, abuse of power and for the purpose of promoting trafficking in persons and taking advantage of vulnerability of CCC, 15 years old, for the purpose of exploitation, slavery, under the pretext of employment, did then and there willfully, unlawfully and feloniously recruit said complainant/victim to work as prostitute, and subjecting the above-mentioned victim to sexual exploitation, to her damage and prejudice.

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

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<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 Republic Act (RA) No. 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 No. 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); *People v. XXX*, G.R. No. 235652, July 9, 2018, 871 SCRA 424.

<sup>7</sup> Records, p. 1.

<sup>8</sup> *Id.* at 106.



**[CRIMINAL CASE NO. 13-9739]**

That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, by means of fraud, deception, abuse of power and taking advantage of vulnerability of DDD, 15 years old, for the purpose of exploitation, slavery, under the pretext of employment, did then and there willfully, unlawfully and feloniously recruit said complainant/victim to work as prostitute, and subjecting the above-mentioned victim to sexual exploitation, to her damage and prejudice.

CONTRARY TO LAW.<sup>9</sup>

**[CRIMINAL CASE NO. 13-9740]**

That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, by means of fraud, deception, abuse of power and taking advantage of vulnerability of EEE, 15 years old, for the purpose of exploitation, slavery, under the pretext of employment, did then and there willfully, unlawfully and feloniously recruit said complainant/victim to work as prostitute, and subjecting the above-mentioned victim to sexual exploitation, to her damage and prejudice.

CONTRARY TO LAW.<sup>10</sup>

Both accused were also charged with violation of RA 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act under four (4) sets of Information<sup>11</sup> quoted as follows:

**[CRIMINAL CASE NO. 13-9741]**

“That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, with lewd design and taking advantage of the innocence and tender age of CCC, a fifteen (15) year old minor, did then and there willfully, unlawfully and feloniously coerce and the said minor complainant into sexual abuse, treating her as a prostitute and giving her money in exchange for sexual services, thereby debasing and degrading the girl’s intrinsic worth and dignity as a human being and endangering her normal development, which is contrary to the provisions of Section 5, Article III of Republic Act 7610.

CONTRARY TO LAW.” x x x

**[CRIMINAL CASE NO. 13-9742]**

“That on or about the 20th day of February, 2013, in the City of

<sup>9</sup> Id. at 157.

<sup>10</sup> Id. at 208.

<sup>11</sup> CA rollo, pp. 43-44.

Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, with lewd design and taking advantage of the innocence and tender age of EEE, a fifteen (15) year old minor, did then and there willfully, unlawfully and feloniously coerce and the said minor complainant into sexual abuse, treating her as a prostitute and giving her money in exchange for sexual services, thereby debasing and degrading the girl's intrinsic worth and dignity as a human being and endangering her normal development, which is contrary to the provisions of Section 5, Article III of Republic Act 7610.

CONTRARY TO LAW." x x x

**[CRIMINAL CASE NO. 13-9743]**

"That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, with lewd design and taking advantage of the innocence and tender age of DDD, a fifteen (15) year old minor, did then and there willfully, unlawfully and feloniously coerce and the said minor complainant into sexual abuse, treating her as a prostitute and giving her money in exchange for sexual services, thereby debasing and degrading the girl's intrinsic worth and dignity as a human being and endangering her normal development, which is contrary to the provisions of Section 5, Article III of Republic Act 7610.

CONTRARY TO LAW." x x x

**[CRIMINAL CASE NO. 13-9744]**

"That on or about the 20th day of February, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, with lewd design and taking advantage of the innocence and tender age of BBB, a seventeen (17) year old minor, did then and there willfully, unlawfully and feloniously coerce and the said minor complainant into sexual abuse, treating her as a prostitute and giving her money in exchange for sexual services, thereby debasing and degrading the girl's intrinsic worth and dignity as a human being and endangering her normal development, which is contrary to the provisions of Section 5, Article III of Republic Act 7610.

CONTRARY TO LAW." x x x<sup>12</sup>

Amurao and Valencia pleaded "not guilty" to all charges.

The prosecution and defense's contrasting versions of the events, as summarized by the CA, are as follows:

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<sup>12</sup> Id.

*Version of the Prosecution*

The Office of the Solicitor General (OSG) presents the prosecution's version of facts as follows:

Sometime in February 2013, the National Bureau of Investigation – Central Luzon Regional Office (NBICELRO) received a report from the International Justice Mission (IJM), a non-governmental organization involved in anti-trafficking in person project, that appellant Esmeraldo T. Amurao was involved in prostituting women in Balibago, Angeles City, Pampanga, some of whom are minors.

On February 19, 2013 at around 8:30 in the evening, two NBI agents went to Fields Avenue in Angeles City to verify the report. As poseur customers, they went to Natalia Hotel where they met hotel security guard Jeffrey Papauran, who called on appellant Esmeraldo Amurao, who was selling cigarette and Viagra in the area. The NBI agents talked to appellant and inquired from him regarding the minor girls he was selling to customers. Appellant told the NBI agents that he could provide them with girls at P1,500.00 each. The agents then asked appellant to provide them with six (6) girls the following night.

Thereafter, the NBI agents returned to their office and informed their superior about the result of their operation. Special Investigator (SI) III Henry C. Roxas, Jr. organized a team for a possible rescue and entrapment operations. The team also coordinated with the Department of Social Welfare and Development (DSWD) Region III and requested them to form part of the support group. Since the NBI failed to secure an arrest warrant for appellant, they decided to proceed with the entrapment operation and prepared the entrapment money worth P9,000.00 which were all in P1,000.00 denomination.

In the evening of February 20, 2013, SI Henry Roxas and another NBI agent returned to Natalia Hotel in Fields Avenue, Angeles City. When they arrived at the area, appellant offered them some girls but they insisted that they be given minor girls.

Minutes later, appellant, together with co-accused Marlyn D. Valencia, arrived with six minor girls in tow. Realizing that the girls brought by appellant and accused Marlyn D. Valencia were indeed minors, the undercover NBI agents requested the girls to go inside their van. Accused Valencia also boarded the van as she was acting as their "mamasan" as she was chaperoning the girls.

SI Henry Roxas then handed to appellant the marked money worth P9,000.00, and the latter deducted P1,000.00 from the amount as his commission. Appellant gave the rest of the money to BBB, who was acting as the leader of the girls.

Once the girls were all inside the van, SI Henry Roxas signaled the rest of the team through a missed call and proceeded with the rescue operation. Appellant was subsequently arrested and the marked money was recovered from him and BBB.

After the operation, the team brought the six (6) girls to the DSWD Region III Office, while appellant and accused Marlyn D. Valencia were brought to NBI-CELRO for fingerprinting and photograph taking. At the



DSWD, the girls executed sworn statements narrating the circumstances that transpired prior to their rescue, particularly the fact that appellant and accused Marlyn D. Valencia recruited and promised them P1,500.00 in exchange for sex with a customer. They likewise declared that they were still minors at the time of their rescue.

Appellant and accused Marlyn D. Valencia were subjected to Inquest Proceedings on February 22, 2013. In its Resolution of even date, Prosecutor Modesto A. Cendana found probable cause and recommended the filing of several Information for Violation of RA 9208 and RA 7610, respectively.

*Version of the defense*

On 19 February 2013, accused-appellant was in front of Natalia Hotel vending cigarettes and viagra. The security guard of Natalia Hotel introduced the NBI agents to him. Accused-appellant claims that the agents gave him P500.00 to look for girls, but, when he failed to provide the girls, the agents still gave him a tip of P500.00 since the said agents won in the casino.

On 20 February 2013, accused-appellant passed by Natalia Hotel and saw the agents again. The said agents asked him to look for girls and even told him “huwag mo naman kami ipahiya.” Since the agents promised to give him a tip, he took his chance to look for six girls. Accused-appellant then contacted his co-accused Marlyn to look for girls. Later on, they were able to bring only four girls to the agents. While in front of Natalia Hotel, two other girls passed by and w[ere] invited by one of the girls they brought to the agents. When they introduced the girls to the agents, the girls and Marlyn boarded the van of the agents. The agents handed P9,000.00 to accused-appellant who took P1,000.00 as his tip and handed the remaining P8,000.00 to the girls. Thereafter, the agents declared that they were NBI agents and immediately arrested accused-appellant.<sup>13</sup>

***Ruling of the RTC***

In its Decision<sup>14</sup> dated November 8, 2013, the RTC convicted accused-appellant Amurao in Criminal Cases Nos. 13-9736, 13-9737, and 13-9738. The RTC held that the prosecution was able to prove beyond reasonable doubt that accused-appellant committed the acts of recruitment upon the persons of AAA, and minors BBB and CCC, for prostitution.

The RTC convicted Valencia in Criminal Cases Nos. 13-9737 and 13-9740. Meanwhile, in Criminal Cases Nos. 13-9736 and 13-9738, Valencia was acquitted. Criminal Cases Nos. 13-9741 to 13-9744 charging both accused of violation of Section 5 of RA 7610<sup>15</sup> punishing Child Prostitution

<sup>13</sup> *Rollo*, pp. 9-12.

<sup>14</sup> *CA rollo*, p. 90.

<sup>15</sup> **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:

and other Sexual Abuse, were dismissed on the ground of double jeopardy.

The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered:

1. In **Criminal Case no. 13-9736**, the court finds accused Esmeraldo "Jay" Tejero Amurao **GUILTY BEYOND REASONABLE DOUBT** of the offense of Violation of Section 4(a) of Republic Act no. 9208 or Trafficking in Person penalized in Section 10 (a) thereof embodied in the Information dated February 22, 2013. Accordingly, accused Esmeraldo "Jay" Tejero Amurao is hereby sentenced **TO SUFFER** the penalty of imprisonment of twenty (20) years and **TO PAY** a fine in the amount of One million pesos (P1,000,000.00).

Accused Esmeraldo "Jay" Tejero Amurao is hereby ordered **TO INDEMNIFY** victim AAA nominal damages in the amount of Twenty-five thousand pesos (P25,000.00).

On the other hand, the court finds accused Marlyn "Lyn" Dizon Valencia **NOT GUILTY** of the offense of Violation of Section 4(a) of Republic Act no. 9208 or Trafficking in Person embodied in the Information dated February 22, 2013 for failure of the prosecution to prove her guilt beyond reasonable doubt. She is hereby **ACQUITTED** of said charge.

2. In **Criminal Case no. 13-9737**, the court finds accused Esmeraldo "Jay" Tejero Amurao and Marlyn "Lyn" Dizon Valencia **GUILTY BEYOND REASONABLE DOUBT** of the offense of Violation of Section 4(a) in relation to Section 6(a) of Republic Act no. 9208 or Qualified Trafficking x x x in Person penalized in Section 10 (c) thereof embodied in the Information dated February 22, 2013. Accordingly, accused Esmeraldo "Jay" Tejero Amurao and Marlyn "Lyn" Dizon Valencia are hereby sentenced **TO SUFFER** the penalty of life imprisonment and **TO PAY** a fine in the amount of Two million pesos (P2,000,000.00).

Both accused Esmeraldo "Jay" Tejero Amurao and Marlyn "Lyn"

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(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;
- (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.

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse; Provided, That when the victims is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; and

(c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.



Dizon Valencia are hereby ordered TO INDEMNIFY private complainant BBB with nominal damages in the amount of Twenty five thousand pesos (P25,000.00).

3. In **Criminal Case no. 13-9738**, the court finds accused Esmeraldo "Jay" Tejero Amurao GUILTY BEYOND REASONABLE DOUBT of the offense of Violation of Section 4(a) in relation to Section 6(a) of Republic Act no. 9208 or Trafficking in Person penalized in Section 10 (c) thereof embodied in the Information dated February 22, 2013. Accordingly, accused Esmeraldo "Jay" Tejero Amurao is hereby sentenced TO SUFFER the penalty of life imprisonment and TO PAY a fine in the amount of Two million pesos (P2,000,000.00).

Accused Esmeraldo "Jay" Tejero Amurao is hereby ordered TO INDEMNIFY victim CCC nominal damages in the amount of Twenty-five thousand pesos (P25,000.00).

On the other hand, the court finds accused Marlyn "Lyn" Dizon Valencia NOT GUILTY of the offense of Violation of Section 4(a) in relation to Section 6(a) of Republic Act no. 9208 or Qualified Trafficking in Person penalized in Section 10 (c) thereof embodied in the Information dated February 22, 2013 for failure of the prosecution to prove her guilt beyond reasonable doubt. She is hereby ACQUITTED of said charge.

4. In **Criminal Case no. 13-9739**, the court finds accused Esmeraldo "Jay" Tejero Amurao and Marlyn "Lyn" Dizon Valencia NOT GUILTY of the offense of Violation of Section 4(a) in relation to Section 6(a) of Republic Act no. 9208 or Qualified Trafficking in Person penalized in Section 10 (c) thereof embodied in the Information dated February 22, 2013 for failure of the prosecution to prove their guilt beyond reasonable doubt. They are hereby ACQUITTED of said charge.
5. In **Criminal Case no. 13-9740**, the court finds accused Marlyn "Lyn" Dizon Valencia GUILTY BEYOND REASONABLE DOUBT of the offense of Violation of Section 4(a) of Republic Act no. 9208 or Trafficking in Person penalized in Section 10 (c) thereof embodied in the Information dated February 22, 2013. Accordingly, accused Marlyn "Lyn" Dizon Valencia is hereby sentenced TO SUFFER the penalty of imprisonment [for] twenty (20) years and TO PAY a fine in the amount of One million pesos (P1,000,000.00).

Accused Marlyn "Lyn" Dizon Valencia is hereby ordered TO INDEMNIFY victim EEE nominal damages in the amount of Twenty-five thousand pesos (P25,000.00).

On the other hand, the court finds accused Esmeraldo "Jay" Tejero NOT GUILTY of the offense of Violation of Section 4(a) in relation to Section 6(a) of Republic Act no. 9208 or Qualified Trafficking in Person penalized in Section 10 (c) thereof embodied in the Information dated February 22, 2013 for failure of the prosecution to prove his guilt beyond reasonable doubt. He is hereby ACQUITTED of said charge.

6. In **Criminal Cases nos. 13-9741 to 13-9744**, the four (4) Informations against accused Esmeraldo "Jay" Tejero Amurao and Marlyn "Lyn" Dizon Valencia for the offense of Violation of Section 5(a) of Republic Act No. 7610 are hereby DISMISSED pursuant to said



accused's right against double jeopardy.

No costs.

SO ORDERED.<sup>16</sup>

A summary of the RTC's ruling for each case and accused is summarized in the table below:

Case	Private complainant	Offense	Amurao	Valencia
Criminal Case No. 13-9736	AAA	Trafficking in Persons	Convicted	Acquitted
Criminal Case No. 13-9737	BBB	Qualified Trafficking in Persons	Convicted	Convicted
Criminal Case No. 13-9738	CCC	Qualified Trafficking in Persons	Convicted	Acquitted
Criminal Case No. 13-9739	DDD	Qualified Trafficking in Persons	Acquitted	Acquitted
Criminal Case No. 13-9740	EEE	Trafficking in Persons	Acquitted	Convicted
Criminal Case No. 13-9741	CCC	Violation of Section 5(a) of RA 7610	Dismissed on the ground of double jeopardy	Dismissed on the ground of double jeopardy
Criminal Case No. 13-9742	EEE			
Criminal Case No. 13-9743	DDD			
Criminal Case No. 13-9744	BBB			

Thus, herein Amurao was convicted of Trafficking in Persons in Criminal Case No. 13-9736 in connection with the trafficking of AAA who was already of majority age at the time of the commission of the offense. Amurao was held guilty of Qualified Trafficking in Persons in Criminal Cases Nos. 13-9737 and 13-9738 in connection with the trafficking of minors BBB and CCC.

Amurao was acquitted in Criminal Cases Nos. 13-9739 and 13-9740 involving private complainants DDD and EEE. Criminal Cases Nos. 13-9741, 13-9742, 13-9743, and 13-9744 (involving private complainants CCC, EEE, DDD, and BBB, respectively) were dismissed on the ground of double-jeopardy.

<sup>16</sup> CA rollo, pp. 88-90.

Hence, Amurao appealed his conviction in Criminal Cases Nos. 13-9736, 13-9737, and 13-9738 on November 29, 2013.<sup>17</sup> In his Memorandum of Appeal to the CA, Amurao interposed the defense of instigation. He also argued that he should have been convicted only of White Slave Trade under Article 341 of the Revised Penal Code (RPC).<sup>18</sup> Co-accused Valencia did not appeal her conviction.

### *The CA Decision*

In its Decision dated December 21, 2015, the CA affirmed the RTC Decision, with modification only as to the award of damages. The CA did not give any credence to Amurao's defenses. On the defense of instigation, the CA held that there was no indication that Amurao was merely induced to commit the crime. On the contrary, the testimonies of the witnesses proved that Amurao was already engaged in the illicit business of recruiting women into prostitution. The NBI agents merely devised a scheme to facilitate Amurao's apprehension through the entrapment operation.

With regard to the classification of the offense, the CA affirmed Amurao's conviction and held that all the elements of Trafficking in Persons and Qualified Trafficking in Persons were present as it was proven beyond reasonable doubt that Amurao recruited women, some of whom were minors, to be trafficked into prostitution.

The CA added the award of moral damages of ₱500,000.00 and exemplary damages of ₱100,00.00, each for AAA, BBB, and CCC and deleted the award of nominal damages. The CA also imposed interest at 6% *per annum* on the award from finality of judgment until full payment. The dispositive portion of the CA Decision reads:

**WHEREFORE**, the Decision of the Regional Trial Court of Angeles City, Branch 59, in Criminal Case Nos. 13-9736, 13-9737 and 139738 are hereby **AFFIRMED with MODIFICATION** in that accused-appellant is **ORDERED** to pay the respective victims moral damages in the amount of ₱500,000.00 and exemplary damages in the amount of ₱100,000.00. The award of nominal damages are hereby **DELETED**. Also, interests at the rate of 6% *per annum* shall be imposed on all the damages awarded from the time judgment had become final until fully paid. The appealed decision is hereby **AFFIRMED** in all respects.

**SO ORDERED.**<sup>19</sup>

Thus, this appeal.

<sup>17</sup> Notice of Appeal, records, p. 528.

<sup>18</sup> ART. 341. *White Slave Trade*.—The penalty of *prisión mayor* in its medium and maximum periods shall be imposed upon any person who, in any manner, or under any pretext, shall engage in the business or shall profit by prostitution or shall enlist the services of women for the purpose of prostitution.

<sup>19</sup> *Rollo*, p. 22.

### Issue

Whether the guilt of Amurao was proven beyond reasonable doubt.

### The Court's Ruling

The appeal has no merit.

Upon judicious review of the records of the case, the Court affirms the factual findings of the RTC, as affirmed by the CA. The Court upholds the findings of the courts *a quo* that Amurao's guilt for the offense of Trafficking in Persons against AAA and Qualified Trafficking in Persons against minors BBB and CCC for the purpose of prostitution was proven beyond reasonable doubt.

Factual findings of the trial court, including its assessment of the credibility of witnesses, probative weight of their testimonies, as well as of the documentary evidence, are accorded great weight and respect, especially when the same are affirmed by the CA, as in this case.<sup>20</sup>

Trafficking in Persons and Prostitution are defined under Section 3 of RA 9208:

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

(a) *Trafficking in Persons* - refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the persons, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The 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.

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.

Amurao was convicted for violation of both simple Trafficking in Persons under Section 4(a) and Qualified Trafficking in Persons under Section 4(a) in relation to Section 6(a) of the law:

<sup>20</sup> *People v. Aguirre*, G.R. No. 219952, November 20, 2017, 845 SCRA 227, 238.



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

(a) To **recruit**, transport, transfer, harbor, **provide**, 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, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage[.] (Emphasis supplied)

Under Section 6(a) of RA 9208, the crime is qualified when the trafficked person is a child, which is defined as a person below the age of 18 years old or above 18 years old but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.<sup>21</sup>

In *People v. Casio*,<sup>22</sup> the Court defined the elements of Trafficking in Persons, as follows:

(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.”<sup>23</sup>

In the instant case, the prosecution was able to establish all the elements of the offense of simple Trafficking in Persons and Qualified Trafficking in Persons. The testimonies of AAA, BBB, and CCC were direct, straightforward, and consistent. They all similarly testified that

<sup>21</sup> SEC. 6. *Qualified Trafficking in Persons*. - The following are considered as qualified trafficking:

(a) When the trafficked person is a child;

(b) When the adoption is effected through Republic Act No. 8043, otherwise known as the “Inter-Country Adoption Act of 1995” and said adoption is for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(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;

(d) When the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee;

(e) When the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;

(f) When the offender is a member of the military or law enforcement agencies; and

(g) When by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immune Deficiency Syndrome (AIDS).

<sup>22</sup> G.R. No. 211465, December 3, 2014, 744 SCRA 113.

<sup>23</sup> Id. at 128-129.

Amurao recruited them for the purpose of prostitution on the night of February 20, 2013.<sup>24</sup> The minority of BBB and CCC were duly proven by their Birth Certificates.<sup>25</sup>

The testimonies of AAA, BBB, and CCC also corroborated the testimony of the arresting officer from the National Bureau of Investigation (NBI), Special Investigator III (SI) Henry Roxas, who detailed the conduct of the entrapment operation which led to the arrest of Amurao and Valencia.

Amurao himself corroborated the testimony of the prosecution witnesses. He admitted that on February 19, 2013, he was at the Natalia Hotel where he met two NBI agents acting as poseur-buyers who inquired about minor girls. Amurao likewise did not deny that he brought the female victims to Natalia Hotel on February 20, 2013 for the purpose of prostituting them. Amurao merely interposed the defense of instigation, alleging that he was forced by the NBI agents to commit the crime.

Such defense deserves scant consideration. The use of entrapment by law enforcement officers as a means to arrest wrongdoers is an accepted practice. In *People v. Hirang*,<sup>26</sup> the accused similarly interposed the defense of instigation in the offense of Trafficking against Persons. The Court rejected his defense and held:

Instigation is the means by which the accused is lured into the commission of the offense charged in order to prosecute him. On the other hand, entrapment is the employment of such ways and means for the purpose of trapping or capturing a lawbreaker. Thus, in instigation, officers of the law or their agents incite, induce, instigate or lure an accused into committing an offense which he or she would otherwise not commit and has no intention of committing. But in entrapment, the criminal intent or design to commit the offense charged originates in the mind of the accused, and law enforcement officials merely facilitate the apprehension of the criminal by employing ruses and schemes; thus, the accused cannot justify his or her conduct. In instigation, where law enforcers act as co-principals, the accused will have to be acquitted. But entrapment cannot bar prosecution and conviction. As has been said, instigation is a "trap for the unwary innocent" while entrapment is a "trap for the unwary criminal."<sup>27</sup>

As correctly held by the CA, it was established that Amurao is a known pimp who recruits women into prostitution, as testified to by AAA:

[*Direct Examination of AAA – Atty. Chris Lawrence Isidro*]

Q What happened when you saw CCC?

A She said we will be going with a foreigner.

<sup>24</sup> RTC Decision, *CA rollo*, pp. 67-75.

<sup>25</sup> Prosecution Evidence, pp. 19-20 [Exhibit "I" – BBB; Exhibit "K" - CCC].

<sup>26</sup> G.R. No. 223528, January 11, 2017, 814 SCRA 315.

<sup>27</sup> *Id.* at 330-331, citing *People v. Bartolome*, G.R. No. 191726, February 6, 2013, 690 SCRA 159, 171-172.



- Q What were you gonna (*sic*) do with the foreigner?
- A To have sex.
- Q Who among the suspects called you?
- A Jay.
- Q How did Jay call you?
- A I was standing in front of Natalia Hotel he told me, "you come with us[.]"
- Q You mentioned that the transaction was for sex, do you know if Jay knows about this?
- A Yes, sir.
- Q **How can you say that Jay knows that the transaction was for sex, do you know if Jay knows about this himself?**
- A **Because he is like that before.**
- Q Have you seen Jay previously?
- A Yes, sir.
- Q When did you see Jay?
- A Also in Fields.
- Q What is Jay doing, if any?
- A He was selling Viagra.
- Q How did you know that Jay is selling Viagra?
- A Because I saw his products and I heard him selling that Viagra.<sup>28</sup>  
(Emphasis and italics supplied)

CCC also testified that she had been previously approached by Amurao about a sexual transaction:

[*Direct Examination of CCC – Atty. Chris Lawrence Isidro*]

- Q When Jay called you, what happened next?
- A I approached him and they told us we will go to a foreigner.
- Q Did Jay tell you what you would do to these foreigners?
- A Yes, sir.
- Q What did he tell you?
- A That we will have sex with the foreigners.

<sup>28</sup> TSN, July 16, 2013, pp. 29-30.



- Q How did he say this to you?
- A Because the women told me we will go to a foreigner. They told me they will give us to the foreigner. They will do something to us (*gagalawin kami*).
- Q **Has Jay offered you for sexual favors before?**
- A **Yes, sir, before.**
- Q Can you tell us when that incident happened?
- A He was not able to pimp me then. He just asked me if I want to go with a Korean friend of his when he arrives.
- Q Did he tell you what you will do with his Korean friend?
- A He said that when my Korean friend arrives, I will give you to him.<sup>29</sup> (Emphasis and italics supplied)

Thus, the testimony of AAA and CCC confirmed that Amurao had already been involved in the illegal trafficking of women even prior to the entrapment operation and arrest on February 20, 2013.

Moreover, there is no indication that Amurao was merely forced or induced to commit the crime. His defense is belied by his own actions in readily agreeing to procure girls for the NBI agents/poseur-buyers and in his active recruitment of the victims. Thus, Amurao's defense of instigation has no merit. Acting on the report from the International Justice Mission, the NBI agents conducted a valid entrapment. They merely devised a scheme to facilitate Amurao's illegal activities in order to arrest him.

Given the foregoing, the Court affirms Amurao's conviction for one count of simple Trafficking in Persons as defined under Section 4(a) of RA 9208 in Criminal Case No. 13-9736 in connection with the trafficking of AAA. Amurao's convictions for two separate counts of Qualified Trafficking in Persons under Section 4(a) in relation to Section 6(a) of RA 9208, in Criminal Cases Nos. 13-9737 and 13-9738 involving minor victims BBB and CCC are also affirmed.

The penalties imposed by the RTC and affirmed by the CA are likewise upheld. Section 10 of RA 9208 provides:

SEC. 10. *Penalties and Sanctions.* - The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

(a) Any person found guilty of committing any of the acts enumerated in Section 4 shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00);

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<sup>29</sup> TSN, June 11, 2013, p. 6.



x x x x

(c) Any person found guilty of qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00)[.]

Hence, the penalty imposed on Amurao in Criminal Case No. 13-9736 of imprisonment of twenty (20) years and a fine of One million pesos (P1,000,000.00); and life imprisonment and a fine of Two million pesos (P2,000,000.00) in Criminal Cases Nos. 13-9737 and 13-9738, respectively, are correct.

Anent the award of damages, the CA correctly modified the nature and amount of the damages in accordance with prevailing jurisprudence. In *People v. Lalli*,<sup>30</sup> the Court held that the award moral and exemplary damages was warranted in cases of Trafficking in Persons as a prostitute under the Civil Code,<sup>31</sup> as the offense is analogous to the crimes of seduction, abduction, rape or other lascivious acts. Following *Lalli*, the CA correctly awarded moral damages of P500,000.00 and exemplary damages of P100,000.00 each to AAA, BBB and CCC. The CA's imposition of six percent (6%) interest *per annum* on the award from finality of judgment until full payment was likewise appropriate in line with the Court's ruling in *Nacar v. Gallery Frames*.<sup>32</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated December 21, 2015 of the Court of Appeals in CA-G.R. CR.-HC. No. 06499 is **AFFIRMED**.

<sup>30</sup> G.R. No. 195419, October 12, 2011, 659 SCRA 105, 128.

<sup>31</sup> ART. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

x x x x

ART. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

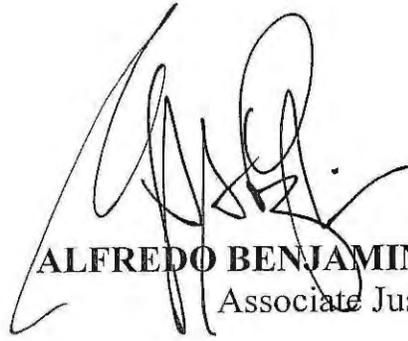
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ART. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

ART. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

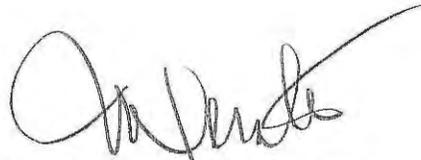
<sup>32</sup> G.R. No. 189871, August 13, 2013, 703 SCRA 439.

**SO ORDERED.**

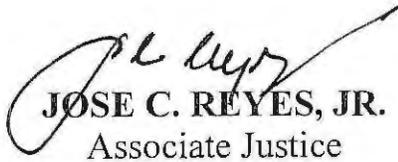


**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

WE CONCUR:



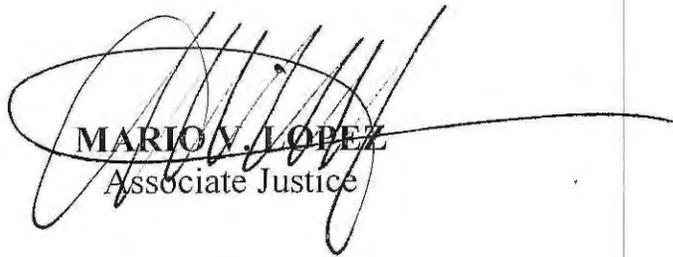
**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson



**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