

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. JACKIE MAYCABALONG AND DAVE PASILAN, ACCUSED-APPELLANTS.

G.R. No. 215324. December 05, 2019

Ponente: REYES, J. JR., J.

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REYES, J. JR., J.:

On appeal is the August 13, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01541 which affirmed the July 30, 2012 Decision[2] of the Regional Trial Court, Branch 17, Cebu City (RTC) in Criminal Case No. CBU-86397 finding accused-appellants Jackie Maycabalong and Dave Pasilan (accused-appellants) guilty of violating Section 4(a) and (e) in relation to Section 6(c) of Republic Act (R.A.) No. 9208 or the Anti-Trafficking in Persons Act of 2003.

The Facts

In an Information, dated June 20, 2009, accused-appellants were charged as follows:

That on or about the 18[th] day of June, 2009 and for sometime prior thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping with each other, with deliberate intent, did, then and there[,] recruit, maintain and/or hire AAA, BBB, CCC and DDD[3] to engage in prostitution and pornography.

CONTRARY TO LAW.[4]

Upon arraignment, accused-appellants pleaded not guilty to the charge.

Version of the Prosecution

The prosecution presented DDD, SPO3 Raul Sabaldan (SPO3 Sabaldan), PO3 Jose Erwin Dumaguit (PO3 Dumaguit) and PO1 Linda Almohallas as witnesses. Their combined testimonies[5] tended to establish the following:

Sometime in June 2009, the Regional Anti-Human Trafficking Task Force (Task Force) of Region 7 received a report from an informant that there was trafficking of women for purposes of sexual exploitation in Barangay Capitol, Cebu City, particularly at Juana Osmeña Street along Baseline Bar and Restaurant. Acting on the tip, Police Inspector Reynaldo Valmoria (P/Insp. Valmoria) instructed his men to conduct surveillance operations in order to identify the persons involved in the illegal activities. In their three nights of surveillance, SPO3 Sabaldan and PO3 Dumaguit observed two persons, a man and a woman, who would habitually approach a vehicle before departing the area. Upon their return, they had girls with them and they made the girls board the vehicle until the vehicle would finally leave.[6]

After the surveillance, P/Insp. Valmoria called his men to a short briefing for the conduct of an entrapment operation against the two persons. During the briefing, SPO3 Sabaldan was designated as a police decoy to pose as a customer. He would be accompanied by an American police officer while the rest of the members of the Task

Force would act as backup officers to arrest the suspects. The Task Force also contacted the Department of Social Welfare and Development (DSWD) to assist them in the rescue and turnover of the victims.[7]

On June 18, 2009, at about 9:00 p.m., the Task Force proceeded to Juana Osmeña Street for the entrapment operation. When the Task Force was nearing Baseline Bar and Restaurant, they noticed the two persons along the road. They stopped their vehicle in front of the suspects. The male suspect, who turned out to be accused-appellant Pasilan, approached SPO3 Sabaldan's vehicle and told him, "Sir[,] naa batan-on." (Sir, there are youngsters). In reply, SPO3 Sabaldan said, "[U]nsay batan-on[?] [B]asi mosabit ta ani." (What youngsters? We might get in trouble for that.) Thereafter, the female suspect, later on identified as accused-appellant Maycabalong, appeared and haggled with SPO3 Sabaldan. Then, SPO3 Sabaldan parked the vehicle in a parking area near Baseline Bar and Restaurant, proceeded to its patio and continued the transaction with accused-appellants. Later on, accused-appellants left the area.[8]

At around midnight, accused-appellants arrived at a lodging house along Colon Street to inform DDD that they had customers who needed women. While accused-appellant Pasilan was convincing DDD to go with them, accused-appellant Maycabalong went upstairs to fetch her live-in partner, AAA, a friend of DDD. Later, accused-appellant Maycabalong, together with DDD and AAA, boarded a cab wherein accused-appellant Pasilan was waiting. DDD asked accused-appellant Pasilan how much the payment would be for their services. Accused-appellant Pasilan replied that it was P700.00 and that P400 would go to DDD and the rest to accused--appellants. Then, they proceeded towards Mango Avenue to search for two more girls, whom they found along 22[nd] Street, and whose names were later learned by DDD as CCC and BBB. Accused-appellants asked CCC and BBB if they needed customers and invited them to board the taxi.[9]

Upon reaching Baseline Bar and Restaurant at around 1:00 a.m., accused-appellant Pasilan disembarked from the cab and approached SPO3 Sabaldan's vehicle and talked to the latter. Accused-appellant Pasilan went back to their cab, knocked on the window and the four girls alighted therefrom. Accused-appellant Pasilan guided the girls toward the police officers. SPO3 Sabaldan chose DDD and AAA and gave accused-appellant Pasilan P2,100.00 consisting of two 500-peso bills and 11 100-peso bills. When accused-appellant Pasilan passed on the marked money to accused--appellant Maycabalong, SPO3 Sabaldan made the pre-arranged signal of "raising his short sleeves," signifying that the transaction was completed. At this point, accused-appellant Pasilan became suspicious and tried to escape. SPO3 Sabaldan identified himself as a police officer. Accused-appellant Pasilan resisted the arrest, resulting in a scuffle between him and the police officers. The policemen eventually prevailed. PO3 Dumaguít immediately handcuffed accused-appellant Pasilan and placed him under arrest. Accused--appellant Maycabalong, on the other hand, was held and arrested by PO1 Linda Almohallas. The four girls were rescued and brought by the DSWD team to the DSWD center. Accused-appellants were brought to the PNP Crime Laboratory for ultra-violet examination. The laboratory examination report showed that accused-appellants were found positive for the presence of ultraviolet powder in their hands.[10]

Version of the Defense

Accused-appellant Maycabalong admitted knowing accused-appellant Pasilan as well as AAA, BBB and CCC. She alleged that in the early morning of June 18, 2009, she was at the corner of Cebu Doctors Hospital when she was invited by AAA, her girlfriend, who was with Pasilan and DDD. They told her that they were going to stop by a certain place before going to eat. AAA was having a conversation with some men while she just waited nearby. She was surprised when suddenly there was a commotion. She was then taken inside a van where she was handcuffed and made to hold the money.[11]

Accused-appellant Pasilan averred that he escorted AAA to Baseline Bar and Restaurant because AAA was not

familiar with the place. AAA asked him to wait for her near the corner of Maria Cristina St. A waiter in the restaurant, who thought that he was the manager of the girls, asked him to fetch the latter. Then, the police arrived and he was handcuffed.[12]

The Regional Trial Court's Ruling

In a Decision, dated July 30, 2012, the RTC found accused-appellants guilty of violation of Section 4 in relation to Section 6 of R.A. No. 9208. It ruled that the prosecution was able to prove beyond reasonable doubt that accused-appellants transacted with the undercover police officers and offered the services of the girls for a fee. The fallo reads:

WHEREFORE, all premises considered, accused Dave "Dongkoy" Pasilan and Jackie Maycabalong are hereby adjudged GUILTY beyond reasonable doubt of the crime of violation of Sec. 4 in relation to Sec. 6(c) of R.A. 9208 (Large Scale).

Accordingly, each of the accused is sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of [P]2,000,000.00. Furthermore, they are ordered to pay the victims the sum of [P]500,000.00 as moral damages.

SO ORDERED.[13]

Aggrieved, accused-appellants elevated an appeal before the CA.

The Court of Appeals' Ruling

In a Decision, dated August 13, 2014, the CA affirmed the conviction of accused-appellants. It held that accused-appellants committed the crime of trafficking in persons by offering the services of the girls to male patrons in exchange for money. As regards accused-appellants' averment regarding the failure of the surveillance team to know their names during the surveillance, the CA ruled that the identification made by the police officers were not by names but by their visual observation of accused-appellants' nightly activities in the area. It added that since the police officers have already known accused-appellants by visual recognition, knowing their names during the surveillance operation was not necessary and essential. It disposed the case in this wise:

WHEREFORE, all premises considered, the appealed Decision dated 30 July 2012 of the Regional Trial Court, Branch 17, Cebu City, in Criminal Case No. CBU-86397, finding appellants Jackie Maycabalong and Dave Pasilan guilty of violation of Section 4 (a) and (e), in relation to Section 6 (c) of R.A. No. 9208, is hereby AFFIRMED in toto.

SO ORDERED.[14]

Hence, this appeal.

Issue

Whether the guilt of accused-appellants for violation of Section 4 (a) and (e) in relation to Section 6 (c) of R.A. No. 9208 has been proven beyond reasonable doubt.

The Court's Ruling

Republic Act No. 9208 defines trafficking in persons as:

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 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.

In *People v. Casio* (Casio),^[15] the Court enumerated the elements of the crime:

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

(1) The act of "recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders."

(2) The means used which include "threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another["]; and

(3) The purpose of trafficking is exploitation which includes "exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs."

On February 6, 2013, the law was amended by R.A. No. 10364. Casio, likewise, enumerated the elements of the crime under the expanded definition:

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

(1) The act of "recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders[";]

(2) The means used include "by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person"[;]

(3) The purpose of trafficking includes "the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs[.]"^[16] (Emphasis in the original)

Here, the offense was committed on June 18, 2009, prior to the amendment. Thus, the original provisions of R.A. No. 9208 are applicable.

The prosecution established that on June 18, 2009, accused-appellants approached SPO3 Sabaldan and offered him the sexual services of four girls in exchange for money. The police operation had been the result of previous surveillance conducted within the area by the Task Force. DDD testified as follows:

ATTY. LUNA:

Q:

At that time, June 18, do you know already Dave?

A:

Yes

Q:

How did you know him?

A:

I met him before because his live-in partner brought me to the place of Dave.

Q:

Where is that area you were refening to where you were brought by Mae?

A:

Maria Christina near Baseline.

Q:

What is his occupation?

A:

Pimp.

Q:

Let's go back to the time when they went to the place. While Dave was waiting in the taxi, what happened next after Jackie went upstairs to fetch her live-in partner?

x x x x

A:

He was waiting downstairs.

Q:

Whom were you waiting?

A:

Jackie and her live-in partner.

Q:

Did Jackie and her live-in partner arrive or come back?

A:

Yes.

Q:

Even since they came back, Jackie and AAA, what happened?

A:

We went directly to the taxi where Dave was waiting.

Q:

Is there anything that Jackie told you?

A:

I asked Jackie.

Q:

What did you ask?

A:

How much.

Q:

To whom did you ask that question?

A:

Dave.

Q:

What was the reply?

A:

[P]700.00.

Q:

When you said [P]700.00, what was that for?

A:

Payment for sexual services.

x x x x

Q:

According to you, you were looking for girls. Where did you head?

A:

Towards Mango Avenue.

Q:

Did you in fact arrive?

A:

Yes, on the 22nd St., we found two more girls.

Q:

When you said two more girls, do you know the purpose why you were looking for two girls?

A:

So that the customers would have choices among the four of us.[17]

X X X X

In *People v. Rodriguez*,^[18] the Court held that the trafficked victim's testimony that she had been sexually exploited was "material to the cause of the prosecution." Here, AAA's testimony was corroborated by the testimonies of the police officers who conducted the entrapment operation.

The Court, therefore, affirms the trial court's and the Court of Appeals' conviction of accused-appellants in violation of R.A. No. 9208, Section 4(a) and (e), as qualified by Section 6(c) and punished under Section 10(c). In *Casio*, however, this Court held that moral damages and exemplary damages must also be imposed. In *People v. Aguirre*:^[19]

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

Thus, in line with jurisprudence, this Court deems it proper to impose moral damages of P500,000.00 and exemplary damages of P100,000.00.

WHEREFORE, the Appeal is DISMISSED. The Court of Appeals August 13, 2014 Decision in CA-G.R. CR-HC No. 01541 is AFFIRMED with MODIFICATION. Accused-appellants Jackie Maycabalong and Dave Pasilan are found GUILTY beyond reasonable doubt of having violated Republic Act No. 9208, Section 4(a) and (e), as qualified by Section 6(c). They are SENTENCED to suffer the penalty of life imprisonment and to PAY a fine of Two Million Pesos (P2,000,000.00). They are further ORDERED to PAY Five Hundred Thousand Pesos (P500,000.00) as moral damages and One Hundred Thousand Pesos (P100,000.00) as exemplary damages to each of the victims.

All damages awarded shall be subject to the rate of 6% interest per annum from the finality of this Decision until its full satisfaction.

SO ORDERED.

Peralta, C.J., (Chairperson), Caguioa, (Working Chairperson), Lazaro-Javier, and Inting,[*] JJ., concur.

[*] Additional Member per Special Order No. 2726.

[1] Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Ramon Paul L. Hernando (now a member of the Court) and Marilyn B. Lagura-Yap, concurring; rollo, pp. 4-32.

[2] Penned by Judge Silvestre A. Maamo, Jr.; CA rollo, pp. 27-37.

[3] The names of the victims are blotted out to protect their identity pursuant to Administrative Circular No. 83-2015 issued on July 27, 2015.

[4] CA rollo, p. 27.

[5] Id. at 29-33.

[6] Id. at 29-30.

[7] Id.

[8] Id. at 30-32.

[9] Id.

[10] Id.

[11] Id. at 33-34.

[12] Id. at 34.

[13] Id. at 37.

[14] Rollo, p. 31.

[15] 749 Phil. 458, 472-473 (2014).

[16] Id. at 474.

[17] Rollo, pp. 21-23.

[18] G.R. No. 211721, September 20, 2017, 840 SCRA 388, 401.

[19] G.R. No. 219952, November 20, 2017, 845 SCRA 227, 246-247.

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