

MARIAN REBUTAY SEDANO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 246306. July 26, 2023*

Ponente: INTING, J.

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Before the Court is a Petition[1] for review on certiorari under Rule 45 of the Rules of Court assailing the Decision[2] dated September 26, 2018, and the Resolution[3] dated March 4, 2019, of the Court of Appeals (CA) in CA-G.R. SP No. 07226. The CA granted the Petition for Certiorari[4] filed by the People of the Philippines (People), through the Office of the Solicitor General (OSG), and reversed and set aside the judgment of acquittal rendered by Branch xx Regional Trial Court (RTC), xxxxxxxxxxxx Davao del Norte, in Criminal Case Nos, 19762, 19763, 19764, 19765, 19766, 19767, 19768, 19769, 20112, and 20113 in its Joint Decision[5] dated October 30, 2015.

More particularly, the CA found Marian Rebuta y Sedaño (petitioner) guilty beyond reasonable doubt of five (5) counts of violation of Section 4(a),[6] qualified by Section 6(a)[7] of Republic Act No. (RA) 9208,[8] otherwise known as the "Anti-Trafficking in Persons Act of 2003," as expanded under RA 10364,[9] in relation to Section 12-D(2), Article VIII of RA 7610,[10] as amended by RA 9231,[11] otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act," and sentenced her to suffer the penalty of life imprisonment and a fine of P2,000,000.00 for each count and ordered her to pay moral and exemplary damages. On the other hand, the CA affirmed the acquittal of Jayflor Delgado y Gabayan (Delgado), petitioner's co-accused below, of all the charges.

The Antecedents

Petitioner is the registered owner and proprietor of the xxxxxxxxxxxx Bar Disco Pub (xxxxxxxxxxxxx Bar) with two branches, one in Pioneer Street and the other in xxxxxxxxxxxx Road, both located in, xxxxxxxxxxxx Davao del Norte.[12] She is also the owner of xxxxxxxxxxxx Lodge, where the employees of xxxxxxxxxxxx Bar reside. Delgado is the floor manager of xxxxxxxxxxxx Bar.[13]

Sometime in January 2014, the National Bureau of Investigation (NBI) of xxxxxxxxxxxx City received a report from the Inter-Agency Council Against Trafficking (IACAT), an international agency involved in the prevention of world-wide trafficking of women and children, requesting the NBI to conduct a surveillance on the xxx Bar establishments based on the information that the establishments employed minors as entertainers and/or guest relations officers (GRO).[14]

On January 24, 2014, the NBI agents went to the xxx Bar in xxxxxxxxxxxx Road pretending to be customers. After determining from the appearances of some of the GROs that they were minors, the NBI agents conducted an operation on the establishment. The NBI agents rounded up the girls, adults, and minors alike who were entertaining the customers. When petitioner arrived at the xx Bar, after one of her employees called her, the NBI agents arrested her, together with Delgado.

During the operation, a social worker and a dentist accompanied the NBI agents. Thereafter, the NBI agents brought the persons rounded- up to the NBI office for initial investigation; those who appeared to be minors were segregated, and those who were determined to be adults were released. The social worker took custody of those who appeared to be below legal age and made them undergo dental examinations. After the preliminary determination that the girls were indeed minors, the social worker brought the minor girls to a youth center. Thereafter, the NBI identified five of the girls as follows: AAA, then 15 years old; BBB, then 16 years old; CCC, then 17 years old; DDD, then 17 years old; and EEE, then 15 years old.[15] The minors then filed their respective complaints against petitioner and Delgado.[16]

As a result, petitioner and her co-accused Delgado were charged with violations of Section 6(a) in relation to Sections 3(c) and 4(a) of RA 9208, as amended by RA 10364 or the "Expanded Anti-Trafficking in Persons Act of 2012" under the following Amended Informations:

Criminal Case No. 19762

That on or about January 24, 2014 and prior thereto, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly hire, receive and harbor at the said xxxxxxxxxxxx Disco Pub for purposes of sexual exploitation, the minor [AAA], by taking advantage of the latter's vulnerability by reason of her minority and abject poverty engage her as sexy dancer wearing only bra and sash to cover her private part [sic]; by requiring her to wear skimpy clothes and to sit with male customers; take public shower in front of male audience while allowing said customers to apply soap on her private parts, thereby exposing her constantly to sexual abuse, and even prostituting said minor offering her services to male customers for sexual pleasure in exchange of money, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority of the trafficked person, [AAA], 15 years of age. [17]

Criminal Case No. 19763

That on or about January 24, 2014, and prior thereto, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly hire, receive and harbor at the said xxxxxxxxxxxx Disco Pub for purposes of sexual exploitation, the minor [BBB], by taking advantage of the latter's vulnerability by reason of her minority and abject poverty engage her as sexy pole dancer wearing almost nothing but sash to cover her private parts; and to sit with male customers who would embrace her and touch her private parts and kiss her cheeks, thereby exposing her constantly to sexual abuse, to her damage and prejudice. That the crime was attended by the qualifying circumstance of minority of the trafficked person, [BBB], 16 years of age.[18]

Criminal Case No. 19764

That on or about January 24, 2014, and prior thereto, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully unlawfully and knowingly hire, receive and harbor at the said xxxxxxxxxxxx Disco Pub for purposes of sexual exploitation, the minor [CCC], by taking advantage of the latter's vulnerability by reason of her minority and abject poverty engage her as sexy dancer; requiring her to wear skimpy clothes and to sit with male customers thereby exposing her to sexual abuse, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority of the trafficked person, [CCC], 17 years of age.[19]

Criminal Case No. 19765

That on or about January 24, 2014, and prior thereto, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully unlawfully and knowingly hire, receive and harbor at the said xxxxxxxxxxxx Disco Pub for purposes of sexual exploitation, the minor [DDD], by taking advantage of the latter's vulnerability by reason of her minority and abject poverty engage her as sexy dancer by requiring her to wear almost nothing and to sit with male customers who would touch her legs thereby exposing her to constantly sexual abuse, to her damage and prejudice.

That the crime was attended by the qualifying circumstance of minority of the trafficked person, [DDD], 17 years of age.[20]

Petitioner and Delgado were also charged with four counts of violation of Section 12-D(4)(b) of RA 7610, as amended, in separate Informations, the accusatory portions of which read:

Criminal Case No. 19766

That on or about January 24, 2014 and prior thereto, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly [AAA], a 15 year old minor, as entertainer and nude dancer at xxxxxxxxxxxx Disco Pub, a worst form of labor, the nature of such work being harmful to the health, safety and moral[s] of said minor as well as prejudicial to the welfare and development of the same who has to endure the long and unholy hours of work in such kind of business which require her to wear skimpy and sexy clothes while dancing in[]front of male customers and taking a public bath while allowing male patrons to rub soap even on her private parts thus compromising her morals, to her damage and prejudice.[21]

Criminal Case No. 19767

That on or about January 24, 2014 and prior thereto, in the City of, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly engage [BBB] a 16 year old minor, as entertainer and nude dancer at xxxxxxxxxxxx Disco Pub, a worst form of labor, the nature of such work being harmful to the health, safety and moral[s] of said minor as well as prejudicial to the welfare and development of the same who has to endure the long and unholy hours of work in such kind of business which require her to wear sexy and skimpy clothes while dancing in front of male customers and taking a public bath while allowing male patrons to rub soap even on her private parts thus compromising her morals, to her damage and prejudice.[22]

Criminal Case No. 19768

That on or about January 24, 2014 and prior thereto, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly engage [CCC], a 17 year old minor, as entertainer and nude dancer at xxxxxxxxxxxx Disco Pub, a worst form of labor, the nature of such work being harmful to the health, safety and moral[s] of said minor as well as prejudicial to the welfare and development of the same who has to endure the long and unholy hours of work in such kind of business which require her to wear skimpy and sexy clothes while dancing in front of male customers and taking a public bath

while allowing male patrons to rub soap even on her private parts thus compromising her morals, to her damage and prejudice.[23]

Criminal Case No. 19769

That on or about January 24, 2014 and prior thereto, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, being the proprietor and floor manager, respectively, of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly engage [DDD], a 17 year old minor, as entertainer and nude dancer at xxxxxxxxxxxx Disco Pub, a worst form of labor, the nature of such work being harmful to the health, safety and moral[s] of said minor as well as prejudicial to the welfare and development of the same who has to endure the long and unholy hours of work in such kind of business which require her to wear skimpy and sexy clothes while dancing in front of male customers and [] taking a public bath while allowing male patrons to rub soap even on her private parts thus compromising her morals, to her damage and prejudice.[24]

Petitioner and Delgado, through counsel, filed an Omnibus Motion (to Quash and Fix Bail),[25] but the RTC denied it in a Resolution[26] dated May 15, 2014.

Subsequently, EEE lodged another set of criminal complaints. Thus, additional Informations were filed against petitioner alone and docketed as Criminal Case Nos. 20112 and 20113. The accusatory portions of the Informations are hereby quoted as follows:

Criminal Case No. 20112

That sometime in December, 2013, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the proprietor of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly hire [EEE], a 14 year old minor, as Guest Relation Officer performing pole dance wearing only a sash to cover her private parts and sometimes dancing totally naked in front [sic] of male customers requiring her to work between the hours of 8:00 o'clock in the evening until 4:00 o'clock the following day, which is a worst form of labor the nature of such work being harmful to the health, safety and moral[s] of said minor as well as prejudicial to her welfare and development of, to her damage and prejudice.[27]

Criminal Case No. 20113

That sometime in December, 2013, in the City of xxxxxxxxxxxx, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the proprietor of xxxxxxxxxxxx Disco Pub, did then and there willfully, unlawfully and knowingly hire [EEE] at the said xxxxxxxxxxxx Disco Pub for purposes of sexual exploitation, said accused, by taking advantage of the latter's vulnerability by reason of her minority and abject poverty, engages the services of said minor as a sexy pole dancer wearing only a sash to cover her private parts and sometimes dancing naked in front of male customers, in exchange for money, profit or consideration, paid by the pub's customers, with whom the minor is also required to entertain male customers by joining their table and allowing said customers to touch her private parts while allowing her to drink alcoholic beverages which entitles her to a commission every drink she consumes, to the minor victim's damage and prejudice.

That the crime was attended by the qualifying circumstance of minority of trafficked person, [EEE].[28]

Upon arraignment, both petitioner and Delgado entered pleas of "not guilty."

Trial on the merits ensued.

Ruling of the RTC

In a Joint Decision[29] dated October 30, 2015, the RTC acquitted petitioner and Delgado of the charges. The dispositive portion of the Joint Decision states:

WHEREFORE, premises considered, there being absence of proof beyond reasonable doubt as to their guilt, the accused MARIAN REBUTA Y SEDANO and JAYSON DELGADO Y GABA YAN, are ACQUITTED of all the charges against them in all these cases.

The Warden of the City Jail, xxxxxxxxxxxx City District, is ordered to release the said accused from his custody forthwith, unless the latter are being detained for some other lawful cause or causes.

SO ORDERED.[30] (Emphasis omitted)

The RTC acquitted petitioner and Delgado on the ground that their guilt was not proven beyond reasonable doubt. According to the RTC, private complainants were neither coerced nor compelled by petitioner and Delgado to work as GROs in xxxxxxxxxxxx Bar and were not forced to dance or to entertain customers. According to the RTC, private complainants themselves voluntarily approached petitioner and applied for a job as GROs, and they lied about their ages so that petitioner may hire them.[31]

The pertinent portions of the RTC Decision are hereby quoted as follows:

First, as to the charge of Qualified Trafficking in Persons in Crim. Cases (sic) Nos. 19762 to 19765 and 20113, particularly Sections 3[(c)] and 4(a) of Rep. Act No 9208, the Court hereby adopts and makes as integral part hereof the discussion on this matter contained in its Resolution dated May 15, 2014 as follows:
Rep. Act No. 9[2]08 has been explained as follows:

Section 3(a) of Republic Act No. 9208 (RA 9208), otherwise known as the Anti-Trafficking in Persons Act of 2003, defines Trafficking in Persons, as follows:

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. x x x

xxx xxx xxx

The Anti-Trafficking in Persons Act is a new law passed last 26 May 2003, designed to criminalize the act of trafficking in persons for prostitution, sexual exploitation, forced labor and slavery, among others.

Specifically, in relation to Crim. Cases Nos. 19762 to 19765, Section 4, paragraphs (a) and (e) of the said Rep. Act provides:

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, 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;

xxx xxx xxx

(e) To maintain or hire a person to engage in prostitution or pornography;

The offense becomes qualified when, among others:

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

(a) When the trafficked person is a child;

From the facts above-narrated, it is clear that no threat, force, coercion, abduction, fraud and/or deception was exercised by either of the accused Rebuta or ado to compel the private complainants to work as GRO's in the xxxxxxxxxxxx Bar for the purpose of exploiting them for prostitution. On the contrary, it was the private complainants themselves who voluntarily applied for their jobs as such GRO's and by lying about their ages, were the ones who employed deception so that they may be hired by Rebuta.

This misrepresentation about their age would likewise applies (sic) insofar as Crim. Cases Nos. 19766 to 19769 and 20[1]12 through which the two accused are charged for the violation of "Section 12-D, paragraph 4(b), Article VIII of R.A. No. 7610, as amended by Section 3 of Republic Act No. 9231", by the OCP for engaging their services as entertainers in the xxxxxxxxxxxx Bar, which, according to it, is "a worst form of child labor, the nature of such work being harmful to the health, safety and moral of said minor as well as prejudicial to the welfare and development of the same who has to endure the long and unholy hours of work..."

More accurately, taking this allegation into consideration, the appropriate subparagraph of Section 12, Article VIII of Rep. Act No. 7610 would be subparagraph (b) which provides:

Section 12. - Employment of children. - Children below fifteen (15) years of age may be employed, Provided, That the following minimum requirements be present:

xxx xxx xxx

(b) The employer shall ensure the protection, health, safety, morals of the child; and, in relation thereto, Section 3 of Rep. Act No. 9231, which added Sections 12-A, subparagraphs (1) to (3) to Rep. Act No. 7610, prohibiting a child worker who is below fifteen (15) years of age to work for more than twenty hours a week or more than four hours a day; but that one who is fifteen years old but below eighteen may work for more than eight hours a day but not more than forty hours a week; and that, no child below fifteen years old shall be allowed "to work

between six o'clock in the evening and six o'clock in the morning of the following day.

The said law is clear: first, it applies to minors below fifteen (15) years of age; work hours are limited to a certain period of time each day; exemption is made for those over fifteen but below eighteen.

Applied to these cases, the xxxxxxxxxxxx Bar, by the very nature of its business, is open only at night; working hours are between 7:00 o'clock in the evening up to approximately two or three o'clock in the morning of the succeeding day, for a total average of seven to eight hours each night; it is not clear whether the private complainants were made to work the straight shift of the seven to eight hours each night because they had the freedom to cut it short or to prolong it. Most of them, with the exception of [EEE], were over 15 years of age at the time that they worked for xxxxxxxxxxxx Bar; with respect to [EEE], she just like everyone else, lied about her age so she may work for xxxxxxxxxxxx Bar.[32] (Emphasis and italics in the original)

Disagreeing with the RTC ruling, the People, through the OSG, filed a Petition for Certiorari[33] ascribing grave abuse of discretion on the part of the RTC in rendering the assailed Joint Decision acquitting petitioner and Delgado of the offenses charged against them for being contrary to law and jurisprudence.[34]

The OSG averred that under RA 9208, as amended by RA 10364, the following are the elements of trafficking in persons, viz.:

(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 to 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[; and]

(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." [35]

According to the OSG, the elements, which can be summarized in three words, particularly, act, means, and purpose, have been established. As regards the first and third elements, the OSG explained that petitioner and Delgado admitted that the private complainants were hired not only as waitresses but also as dancers and GROs. Also, the purpose of hiring them was for sexual exploitation and prostitution.[36]

With respect to the second element, the OSG ascribed grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC when it ruled that petitioner and Delgado did not coerce the private complainants to work at xxxxxxxx Bar, and therefore, the element of means to commit human trafficking, was lacking. As adverted to by the OSG, under Section 3(a), second paragraph, and Section 3(b) of RA 9208, the recruitment, transportation, transfer, harboring, adopting, or receipt of a child for the purpose of exploitation shall still be considered "trafficking in persons" even if it does not involve any of the means set forth in the first paragraph of Section 3(a) of the same law. The OSG further contended that because the minority of the private complainants was established through their respective birth certificates, the element of means need not be proven.[37]

As to the violation of Section 12-D(4)(b) of RA 7610, as amended by RA 9231, the OSG likewise asserted that petitioner and Delgado should be held liable because they managed a workplace where the victims are exposed to actual sexual abuse regardless of the work hours. The foregoing provision punishes the exposure of a child to work which would cause "physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals." [38]

Notably, the petition for certiorari filed by the OSG did not pray for or include any specific relief for the court's resolution.

Ruling of the CA

In the herein assailed Decision[39] dated September 26, 2018, the CA granted the petition and reversed and set aside the Joint Decision of the RTC. Concomitantly, the CA convicted petitioner of five (5) counts of violation of Section 4(a), qualified by Section 6(a) of RA 9208, as expanded under RA 10364, in relation to Section 12-D(2), Article VIII of RA 7610, as amended by RA 9231, otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act." The CA sentenced petitioner to suffer the penalty of life imprisonment and ordered her to pay a fine of P2,000,000.00 for each count.

The decretal portion of the CA Decision states:

WHEREFORE, premises considered, the Petition for Certiorari is GRANTED. The assailed Joint Decision dated October 30, 2015 of the Regional Trial Court, Branch x , xxxxxxxxxxxx City, Davao del Norte in Criminal Cases Nos. 19762, 19763, 19764, 19765, 19766, 19767, 19768, 19769, 20112 and 20113 is REVERSED and SET ASIDE. The Court finds Marian Rebuta y Sedaño GUILTY beyond reasonable doubt of five (5) counts for violation of Section 4(a), qualified by Section 6(a) of Republic Act No. 9208, as amended by R.A. No. 10364, in relation to Section 12-D, paragraph 2, Article VIII of R.A. No. 7610, as amended by R.A. No. 9231 and hereby sentences her to suffer the penalty of life imprisonment and a fine of P2,000,000.00,

for each count. Victims [A]AA, [B]BB, [C]CC, [D]DD, and [E]EE, are each entitled to Php 500,000.00 as moral damages and Php 100,000.00 as exemplary damages. The acquittal of Jayflor Delgado y Gabayan of all of the charges remains. Let the records of this case be forwarded to the court of origin for the execution of judgment.

SO ORDERED.[40] (Emphasis omitted)

The CA ruled that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it acquitted petitioner. The CA held that while it is undisputed that private complainants voluntarily applied for work and were not forced to dance or entertain the customers, the law is explicit that the element of means is irrelevant and need not be proven when the victims involved are children. The minority of the five private complainants was proven through their respective birth certificates. Private complainants, being mere children, are already considered victims of trafficking even if the means employed, as enumerated in the law, is wanting. Even without the use of coercive, abusive, or deceptive means, a minor's consent is not given out of his or her own free will.[41]

As to Delgado, the CA affirmed his acquittal of the charges. The CA noted that he was first hired as a security guard before becoming a waiter. Although private complainants identified Delgado as their floor manager, the CA ruled that his acts of supervision were merely in obeisance to petitioner, who gives the orders.[42]

However, the CA clarified that violations of Section 12-D of RA 7610, as amended by RA 9231, under Criminal Case Nos. 19766, 19767, 19768, 19769, and 20112, should be prosecuted and penalized under RA 9208, pursuant to Section 16. The effect, would be to increase the penalty under RA 9208 to its maximum period.[43]

Petitioner filed a Motion for Reconsideration[44] of the Decision, but the CA denied it in the Resolution[45] dated March 4, 2019.

The Petition for Review on Certiorari

Aggrieved by the CA Decision, petitioner filed the present petition and assailed the CA Decision convicting her of five counts of violation of Section 4(a), qualified by Section 6(a), of RA 9208, as amended by RA 10364, in relation to Section 12-D(2), Article VIII of RA 7610, as amended by RA 9231, for being violative of her right against double jeopardy.

Additionally, petitioner raised the following grounds in her petition: (1) the petition for certiorari was filed out of time; (2) the petition for certiorari did not pray for any reliefs; (3) the grant of the petition for certiorari does not fall under the recognized exceptions to double jeopardy; (4) the warrantless search and subsequent warrantless arrest of petitioner violated her constitutional rights; and (5) the evidence acquired in the warrantless search are inadmissible.[46]

In its Comment,[47] the OSG maintained that the CA did not err in granting the petition for certiorari.

The Issues

Essentially, the grounds raised boil down to the main issue of whether the CA, in setting aside the judgment of acquittal and entering a new one finding petitioner guilty of the criminal charges filed against her, violated her constitutional right against double jeopardy.

The Court's Ruling

After a judicious review of the case, the Court finds the petition meritorious.

At the outset, during the deliberations of the case, Associate Justice Alfredo Benjamin S. Caguioa (Associate Justice Caguioa) and Associate Justice Maria Filomena D. Singh (Associate Justice Singh) proffered judicious

and insightful views that enabled the Court to arrive at its resolution.

In criminal cases, no rule is more settled than that "a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable and immediately executory upon its promulgation." [48] This is referred to as the finality-of-acquittal rule. As a rule, the prosecution cannot appeal or bring as an error the proceedings from a judgment rendered in favor of the defendant in a criminal case due to the final and executory nature of a judgment of acquittal and the constitutional prohibition against double jeopardy. [49] Section 21, Article III of the Constitution provides:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

A verdict of acquittal is immediately final; a reexamination of the merits of such acquittal, even in the appellate courts, will put the accused in jeopardy for the same offense. [50] In *People v. Court of Appeals (Fifteenth Div.)*, [51] the Court recapitulated the purpose of the rule, as follows:

x x x The finality-of-acquittal doctrine has several avowed purposes. Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials. It also serves the additional purpose of precluding the State, following an acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty. [52]

In the recent case of *Raya v. People*, [53] the Court enunciated that to give life to the right against double jeopardy, the Court has, in numerous occasions, adhered to the finality-of-acquittal doctrine, thus:

In our jurisdiction, the finality-of-acquittal doctrine as a safeguard against double jeopardy faithfully adheres to the principle first enunciated in *Kepner v. United States*. In this case, verdicts of acquittal are to be regarded as absolutely final and irreviewable. The cases of *United States v. Yam Tung Way*, *People v. Bringas*, *Gandicela v. Lutero*, *People v. Cabarles*, *People v. Bao*, to name a few, are illustrative cases. The fundamental philosophy behind the constitutional proscription against double jeopardy is to afford the defendant, who has been acquitted, final repose and safeguard him from government oppression through the abuse of criminal processes. [54] x x x (Emphasis and underlining omitted)

Nonetheless, a judgment of acquittal in a criminal case may be assailed in a petition for certiorari under Rule 65 of the Rules of Court but only upon a clear showing that the lower court, in acquitting accused, committed not merely reversible errors of judgment but also grave abuse of discretion amounting to lack or excess of jurisdiction or to a denial of due process in which case the assailed judgment is rendered void. [55] As succinctly pointed out by the distinguished Associate Justice Singh, while certiorari may be used to correct an abusive acquittal, the petition in such an extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.

In the case of *Torres v. AAA*, [56] the Court clarified that the finality of acquittal rule has only one exception: grave abuse of discretion that is strictly limited whenever there is a violation of the prosecution's right to due process such as when it is denied the opportunity to present evidence or where the trial is a sham, or when there is a mistrial, rendering the judgment of acquittal void. [57] In other words, an acquittal is considered tainted with grave abuse of discretion, and therefore void, only when it is shown that the prosecution's right to due process was violated, when the trial conducted was a sham, or when there was a mistrial.

In the case, the OSG did not allege and present any proof to show that the prosecution was prevented from presenting its evidence, or was denied of due process, or that the trial conducted was a sham, or that there was a

mistrial. In assailing the RTC ruling, the OSG harped on the RTC's alleged erroneous application of the law when it purportedly disregarded the applicable provisions of RA 9208, as amended, particularly Section 3(a), second paragraph, which provides that if the victims are children, the offense would still be considered as "trafficking in persons" even without the element of means.

Contrary to the findings of the CA, no grave abuse of discretion can be imputed to the RTC for rendering its judgment of acquittal.

Notably, the RTC Joint Decision quoted verbatim the ruling of the Court in *People v. Lalli*[58] (Lalli). In Lalli, the Court explained the crime of Trafficking in Person as defined under Section 3(a) of RA 9208. To be sure, in the present case, the RTC aptly quoted the pertinent portion of the pronouncement in Lalli, without reference to or mention of the other portions of Section 3(a), RA 9208, which were not cited in Lalli.

Moreover, it may be recalled that in acquitting petitioner, the RTC ruled that no threat, force, coercion, abduction, fraud, and/or deception was exercised by either petitioner or Delgado to compel the private complainants to work as GROs in the xxxxxxxxxx Bar. On the contrary, the RTC found that the private complainants themselves voluntarily applied as GROs and were the ones who employed deception by lying about their ages so that they may be hired by petitioner.

In view of the foregoing, the RTC had in fact relied on factual and legal bases in concluding that the prosecution failed to establish that petitioner and Delgado are guilty beyond reasonable doubt. Thus, there is no evidence that the judgment of the RTC was arbitrary or rendered not on the basis of law and evidence but on mere caprice, whim, and despotism, or that the RTC made a despotic exercise of its power arising from passion or hostility. To be sure, "[n]o grave abuse of discretion may be attributed to a court simply because of its alleged misapplication of facts and evidence and erroneous conclusions based on said evidence." [59] Certiorari will issue only to correct errors of jurisdiction, not errors or mistakes in the findings and conclusions of the trial court. [60]

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when it is done in capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. It must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. [61]

It should be noted that when the OSG filed the petition for certiorari assailing the Joint Decision of the RTC, it was essentially questioning the RTC's appreciation of the evidence of the prosecution and the defense as well as its interpretation of the applicable laws. In certiorari proceedings, judicial review does not examine and assess the evidence of the parties or weigh the probative value of evidence. [62] It does not include an inquiry on the correctness of the evaluation of the evidence. [63] It bears stressing that a review under Rule 65 of the Rules of Court "only asks the question of whether there has been a validly rendered decision, not the question of whether the decision is legally correct." [64]

Undeniably, the issues raised by the OSG are not errors of jurisdiction but alleged errors of judgment of the RTC. Errors of judgment are not correctible by certiorari because these are not of such magnitude as to effectively deprive the trial court of jurisdiction to try the case before it. [65] In the case of *People v. Sandiganbayan*, [66] the Court held:

x x x [T]he alleged misapplication of facts and evidence, and whatever flawed conclusions of the Sandiganbayan, is an error in judgment, not of jurisdiction, and therefore not within the province of a special civil action for certiorari. Erroneous conclusions based on evidence do not, by the way, the fact that errors were committed, rise to the level of grave abuse of discretion. For as long as a court acts within its jurisdiction, any

supposed error committed in the exercise thereof will amount to nothing more than an error of judgment reviewable and may be corrected by a timely appeal. The rationale of this rule is that, when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. Otherwise, every mistake made by a court will deprive it of its jurisdiction and every erroneous judgment will be a void judgment.

Necessarily, certiorari will not lie for the purpose of reviewing the intrinsic correctness of a judgment of the lower court on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision.[67]

Thus, as aptly observed by the esteemed Chairperson of the Third Division, Associate Justice Caguioa, it is immaterial whether the RTC erred in its application of the relevant law or in its appreciation of the parties' respective evidence. The fact remains that petitioner's right against double jeopardy already attached when the RTC, after a full-blown trial, and considering the evidence on record, found reasonable doubt to convict petitioner of the charges. What is necessary for the Court to determine is whether the prosecution was denied due process. Absent any proof or indication that the State was denied its day in court, which is clearly not obtaining in the case, the finality-of-acquittal rule must be strictly adhered to.

Based on the foregoing considerations, the Court holds that the CA erred in finding grave abuse of discretion on the part of the RTC and, accordingly, setting aside the RTC Joint Decision acquitting petitioner of the charges. If the petition, regardless of its nomenclature, merely calls for an ordinary review of the findings of the court a quo, the constitutional right of the accused against double jeopardy would be violated.[68]

Jurisprudence explains that for the right against double jeopardy to attach, the concurrence of the following requisites must be present: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as that of the first.[69] In turn, the first jeopardy attaches only (1) upon a valid indictment; (2) before a competent court; (3) after arraignment; (4) when a valid plea has been entered; and (5) when the defendant was convicted or acquitted, or the case was dismissed or otherwise terminated without the express consent of the accused.[70] All the foregoing requisites of double jeopardy are present in this case.

Undoubtedly, there was a valid termination of the first jeopardy in the case, and the CA's grant of respondent's petition for certiorari, reversing petitioner's acquittal and convicting her of five (5) counts of violation of Section 4(a), qualified by Section 6(a) of RA 9208, as amended by RA 10364, in relation or Section 12-D(2), Article VIII of RA 7610, as amended by RA 9231, is a constitutionally-offensive second jeopardy as it pertains to the same offense as the first jeopardy.[71]

Furthermore, aside from being violative of the rule against double jeopardy, the Court also notes two reasons why the CA erred in granting the petition for certiorari and reversing the Joint Decision of the RTC: (1) the petition was filed out of time and (2) it failed to specify the reliefs prayed for.

First, the petition for certiorari was filed out of time. According to petitioner, the OSG filed its Motion for Extension of Time to file the petition on January 18, 2016, beyond the 60-day period under Rule 65.[72] The People, through the public prosecutor, received a copy of the Joint Decision in open court on the date of its promulgation. Accordingly, it had sixty (60) days, or until January 15, 2016, within which to file a petition for certiorari. The OSG admitted that it filed the motion three days late but prayed that the rules be relaxed alleging that it received the Indorsement of the Department of Justice (DOJ) only on January 15, 2016.[73]

Under Section 4, Rule 65 of the Rules of Court a petition for certiorari must be filed within sixty (60) days from notice of the judgment, order, or resolution sought to be assailed.[74] Under exceptional circumstances, and

subject to the sound discretion of the Court, the prescribed period may be extended.[75] However, there exists no special or compelling circumstances to warrant the relaxation of the rules. As earlier discussed, the OSG had not shown that the prosecution was deprived of due process in the proceedings below or that the RTC committed grave abuse of discretion. In addition, as correctly pointed out by petitioner, while a motion for extension to file a petition for certiorari is permissible in exceptional and meritorious circumstances, it must be filed before the expiration of the period sought to be extended. A motion for extension of time filed beyond the period to appeal, or beyond the period to file a petition for review on certiorari, has of no effect because there would no longer be any period to extend, and the judgment or order to be appealed from will have to become final and executory. Applying the foregoing in the instant case, the RTC Joint Decision had already attained finality after the lapse of the period to file a petition for certiorari.

Moreover, the public prosecutors had enough time to endorse the case to the OSG from the time they received a copy of the Joint Decision, but the endorsement was made only on January 11, 2016. Verily, with the OSG's belated filing of the petition for certiorari, the Joint Decision of the RTC had already attained finality. It is a well-established rule that a judgment, once it has attained finality, can never be altered, amended, or modified, even if the alteration, amendment, or modification is to correct an erroneous judgment.[76]

Second, the petition failed to specify the reliefs prayed for. It is basic jurisprudential rule that the courts cannot grant a relief not prayed for in the pleadings or in excess of what is being sought by a party to a case.[77] Whether the omission was advertent or inadvertent, due process requires that notice must be given to the opposing party of the relief sought by the pleadings in order to be afforded the opportunity to adequately prepare his or her defense. Considering the failure of the OSG to timely file the petition and to specify the reliefs prayed for, the CA erroneously granted the petition.

In view of the foregoing disquisitions, the Court sees no need to discuss the issue on the validity of the warrantless search and arrest of petitioner.

Indeed, while the Court acknowledges the government's policy to protect the people from all forms of exploitation and eliminate trafficking in persons, the Court is also duty-bound to uphold the primacy of the constitutional right of petitioner against double jeopardy.

WHEREFORE, the petition is GRANTED. The Decision dated September 26, 2018, and the Resolution dated March 4, 2019, of the Court of Appeals in CA-G.R. SP No. 07226 are REVERSED and SET ASIDE.

Accordingly, the Joint Decision dated October 30, 2015, of Branch x, Regional Trial Court, xxxxxxxxxxxx City, Davao del Norte, in Criminal Case Nos. 19762, 19763, 19764, 19765, 19766, 19767, 19768, 19769, 20112, and 20113, acquitting petitioner Marian Rebuta y Sedaño and accused Jayflor Delgado y Gabayan of the offenses charged, is hereby REINSTATED.

Let entry of judgment be issued immediately.

SO ORDERED.

Gaerlan, and Singh, JJ. concur.

Caguioa[*] (Chairperson), J., On leave, but left a vote with Concurring Opinion.

Dimaampao,[***] J., On official leave.

* On leave.

** Designated as Acting Chairperson per Special Order No. 3004 dated July 10, 2023.

*** On official leave.

[1] Rollo, pp. 9-25.

[2] Id. at 26-46. Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Edgardo A. Camello and Walter S. Ong.

[3] Id. at 47-50.

[4] Id. at 92-132.

[5] Id. at 76-91. Penned by Presiding Judge Ma. Susana T. Baua.

[6] Section 4(a) of RA 9208, as amended by RA 10364 provides:

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, 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[.]

[7] Section 6(a) of RA 9208 provides:

SEC. 6. Qualified Trafficking in Persons. - x x x x

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

[8] Entitled, "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," approved on May 26, 2003.

[9] Entitled, "An Act Expanding Republic Act No. 9208, entitled "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," approved on February 6, 2013.

[10] Approved on June 17, 1992.

[11] Approved on December 19, 2003.

[12] Rollo, p. 76.

[13] Id. at 78.

[14] Id.

[15] The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; RA 9262, "An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes;" Section 40 of Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; People v. Cabalquinto, 533 Phil. 703 (2006); and Amended Administrative Circular

No. 83-2015 dated September 5, 2017. Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

[16] Id. at 77.

[17] As culled from the CA Decision, id. at 27.

[18] Id. at 27-28.

[19] Id. at 28.

[20] Id.

[21] Id. at 29.

[22] Id.

[23] Id. at 29-30.

[24] Id. at 30.

[25] Id. at 53-57.

[26] Id. at 58-66.

[27] Id. at 30-31.

[28] Id. at 31.

[29] Id. at 76-91.

[30] Id. at 91.

[31] Id. at 88-89.

[32] Id. at 87-89.

[33] Id. at 92- 132.

[34] Id. at 108.

[35] Id. at 109-110.

[36] Id. at 110-111

[37]Id. at 113-114.

[38] Id. at 114-116.

[39] Id. at 26-46.

[40] Id. at 46.

[41] Id. at 39-40.

[42] Id. at 42.

[43] Id. at 42-45.

[44] Id. at 192-205.

[45] Id. at 47-50.

[46] Id. at 13.

[47] Id. at 231-276.

[48] *Chiok v. People*, G.R. Nos. 179814 & 180021, December 7, 2021. See also *People v. Arcega*, G.R. No. 237489, August 27, 2020. See further *Mandagan v. Jose M. Valero Corporation*, 854 Phil. 276, 284-285 (2019).

[49] *People v. Court of Appeals*, 755 Phil. 80, 97(2015). See also *Auro v. Yasis*, G.R. No. 246674, June 30, 2020.

[50] See *Cawan v. People*, G.R. No. 206334 (Notice), November 17, 2021, citing *People v. Serrano, Sr.*, 374 Phil. 302 (1999).

[51] 545 Phil. 278 (2007).

[52] Id. at 292.

[53] G.R. No. 237798, May 5, 2021.

[54] Id., citing *People v. Court of Appeals and Francisco*, 468 Phil. 1, 12-13 (2004).

[55] *People v. De Grano*, 606 Phil. 547, 557 (2009).

[56] G.R. No. 248567, November 10, 2020.

[57] Id.

[58] 675 Phil. 126 (2011).

[59] *Villareal v. Aliga*, 724 Phil. 47, 61 (2014).

[60] Id.

[61] *People v. Court of Appeals*, *supra* note 49, at 101.

[62] *Basa-Egami v. Bersales*, G.R. No. 249410, July 6, 2022.

[63] Id.

[64] *Ysidoro v. Hon. Teresita J. Leonardo-De Castro*, 681 Phil. 1, 16 (2012)

[65] See *People v. Sandiganbayan*, G.R. No. 228281, June 14, 2021.

[66] Id.

[67] Id.

[68] *People v. Arcega*, *supra* note 48.

[69] *People v. Judge Declaro*, 252 Phil. 139, 143 (1989).

[70] *People v. Hon. Nitafan*, 362 Phil. 58, 74 (1999).

[71] See Concurring Opinion of Associate Justice Caguioa.

[72] *Rollo*, p. 14.

[73] Id. at 48.

[74] Fluor Daniel, Inc. - Phils. v. Fil-Estate Properties, Inc., 866 Phil. 626, 632-633 (2019).

[75] Id. at 633.

[76] Thomas v. Trono, G.R. No. 241032, March 15, 2021.

[77] Bucal v. Bucal, 760 Phil. 912, 921 (2015).

CONCURRING OPINION

CAGUIOA, J.:

I concur with the ponencia in granting the petition[1] in the captioned case and reinstating the Joint Decision[2] dated October 30, 2015 of the Regional Trial Court, Branch XXX,[3] YYY[4] City, Davao del Norte (RTC), in Criminal Case Nos. 19762, 19763, 19764, 19765, 19766, 19767, 19768, 19769, 20112 and 20113, which acquitted petitioner Marian Rebuta y Sedaño (Rebuta) of all charges of violation of Republic Act No. (RA) 9208,[5] otherwise known as the "Anti-Trafficking in Persons Act of 2003," as expanded under RA 10364,[6] and RA 7610,[7] as amended by RA 9231,[8] otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

In reversing and setting aside the Joint Decision, the Court Appeals[9] (CA) violated Rebuta's constitutional right against double jeopardy.

Brief review of the facts

Rebuta was charged with five (5) counts of violation of Section 6(a) in relation to Sections 3(c) and 4(a) of RA 9208, as amended by RA 10364 before the RTC. She was also charged with five (5) counts of violation of Section 12(d), paragraph 4(b), Article VIII of RA 7610, as amended by RA 9231.[10]

Rebuta pleaded not guilty to all charges.[11] After a full-blown trial, where both parties presented their respective evidence, the RTC issued the Joint Decision acquitting Rebuta of all charges for failure of the prosecution to prove her guilt beyond reasonable doubt.[12] The RTC held:

[I]t is clear that no threat, force, coercion, abduction, fraud and/or deception was exercised by either of the accused Rebuta or Delgado to compel the private complainants to work as GRO's in the [ZZZ][13] Bar for the purpose of exploiting them for prostitution. On the contrary, it was the private complainants themselves who voluntarily applied for their jobs as such GRO's [sic] and by lying about their ages, were the ones who employed deception so that they may be hired by Rebuta.

This misrepresentation about their age would likewise applies [sic] insofar as ... [the] charged for the violation of "Section 12 ... R.A. 7610 ... for engaging their services as entertainers in the [ZZZ][14] Bar[.]"

The said law is clear: first, it applies to minors below fifteen (15) years of age; work hours are limited to a certain period of time each day; exemption is made for those over fifteen but below eighteen.

Applied to these cases, the [ZZZ][15] Bar, by the very nature of its business, is open only at night; working hours are between 7:00 o'clock in the evening up to approximately two or three o'clock in the morning of the succeeding day, for a total average of seven to eight hours each night; it is not clear whether the private complainants were made to work the straight shift of the seven to eight hours each night because they had the

freedom to cut it short or to prolong it. Most of them, with the exception of [EEE],[16] were over 15 years of age at the time that they worked for [ZZZ][17] Bar; with respect to [EEE],[18] she, just like everyone else, lied about her age so she may work for [ZZZ][19] Bar.

At the time of their rescue, there was no visible indication that the private complainants were suffering from physical, psychological, mental or emotional trauma arising from the nature of their work; neither did the prosecution submit any evidence during trial that these private complainants suffered so.[20]

Respondent People of the Philippines (respondent), through the Office of the Solicitor General, filed a petition for certiorari with the CA claiming that the RTC committed grave abuse of discretion when it acquitted Rebuta of the charges.[21]

In the assailed Decision, the CA granted respondent's petition for certiorari, reversed and set aside the RTC Joint Decision, and convicted Rebuta for five (5) counts of violation of Section 4(a), qualified by Section 6(a) of RA 9208, as amended by RA 10364, in relation to Section 12-D, paragraph 2, Article VIII of RA 7610, as amended by RA 9231.[22] Rebuta was sentenced to suffer the penalty of life imprisonment and a fine of P2,000,000.00 for each count. She was likewise ordered to pay moral damages of P500,000.00 and exemplary damages of P100,000.00 to each victim.[23]

The CA held that the RTC gravely abused its discretion in acquitting Rebuta because it disregarded the provision of law which renders irrelevant and unnecessary to prove the element of means employed in the recruitment, transportation, transfer, and harboring of persons when the victims involved are minors. According to the CA, since the minority of private complainants were all proven in this case, and even if private complainants volunteered or consented to Rebuta hiring them, Rebuta is guilty of Qualified Trafficking.[24]

Rebuta filed the present petition before this Court alleging, among others, that respondent's petition for certiorari before the CA does not fall under the recognized exceptions to double jeopardy.[25]

As stated in the outset, I agree with the ponencia in granting the present petition. It was a serious error for the CA to have reversed Rebuta's acquittal because all the elements of double jeopardy are present in this case.

The CA erred in reversing and setting aside the Joint Decision of the RTC acquitting Rebuta. Rebuta's acquittal cannot be reversed without placing her in double jeopardy.

Section 21, Article III of the 1987 Constitution provides that "[n]o person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act."

To implement this constitutional right, Section 7, Rule 117 of the Revised Rules of Criminal Procedure provides:

SEC. 7. Former conviction or acquittal; double jeopardy. - When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

Dissecting the foregoing rule, jurisprudence explains that for the right against double jeopardy to attach, the concurrence of the following requisites must be present: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as that in the first.[26] In turn, the first jeopardy attaches only (1) upon a valid indictment; (2) before a competent court (3) after arraignment; (4) when a valid plea has been entered; and (5) when the defendant was convicted or acquitted, or the case was dismissed or otherwise terminated without the express consent of the accused.[27]

All the foregoing requisites of double jeopardy are present in this case.

Rebuta was charged under ten (10) separate Informations with five (5) counts of violation of Section 6(a) in relation to Sections 3(c) and 4(a) of RA 9208, as amended by RA 10364 and five (5) counts of violation of Section 12(d), paragraph 4(b), Article VIII of RA 7610, as amended by RA 9231 before the RTC, which had jurisdiction over the cases. Rebuta was arraigned and pleaded not guilty to all the charges.[28] During trial, both parties were able to present all their documentary and testimonial evidence and formally offered the same to the trial court.[29] On October 30, 2015, the RTC issued the Joint Decision acquitting Rebuta of all the charges there being absence of proof beyond reasonable doubt as to her guilt.[30]

Clearly, there was a valid termination of the first jeopardy in this case, and the CA's grant of respondent's petition for certiorari, reversing Rebuta's acquittal and convicting her for five (5) counts of violation of Section 4(a), qualified by Section 6(a) of RA 9208, as amended by RA 10364 in relation to Section 12-D, paragraph 2, Article VIII of RA 7610, as amended by RA 9231, is a constitutionally offensive second jeopardy as it pertains to the same offense as the first jeopardy.

To safeguard the constitutional proscription against double jeopardy, the Court has consistently adhered to the "finality-of-acquittal" rule,[31] which provides that "a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation." [32]

The rationale behind the "finality-of-acquittal" doctrine was elucidated by the Court in *People v. Hon. Velasco*,[33] in this wise:

The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State. [...]" Thus Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty."

It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.[34] (Emphasis and underscoring supplied; citations omitted)

However, as any other rule, the "finality-of-acquittal" doctrine is not without exception. In a catena of cases,[35] it has been consistently clarified by the Court that the "finality-of-acquittal" doctrine does not apply when the prosecution - the sovereign people, as represented by the State - was denied due process such as when it is denied

the opportunity to present evidence or where trial is a sham or when there is mistrial. The reason for this is because when the prosecution is deprived of due process, it could thus be said that the judgment of acquittal is void, which thereby means that the first jeopardy had not been validly terminated. As the second element for the right to attach is not yet present, then there could be no violation of the right against double jeopardy when an appellate court "reverses" a judgment of acquittal which resulted from a denial of the prosecution's right to due process. These cases explain that only through this narrow and limited exception would the remedy of certiorari be allowed without offending the constitutional right against double jeopardy. In other words, a Rule 65 petition assailing a judgment of acquittal violates the proscription against double jeopardy; except only when it is alleged and proved that the prosecution was denied due process.

Moreover, not every error in the trial or evaluation of the evidence by the court in question that led to the acquittal of the accused would be reviewable by certiorari. The writ of certiorari, being a remedy narrow in scope and inflexible in character, cannot be issued to correct every error committed by a lower court,[36] especially in cases where the accused is acquitted.

In the cases of *Torres v. AAA*[37] and *Cogasi v. People*[38] the Court annulled the appellate court's reversal of the acquittal of the accused for violation of their right against double jeopardy. The Court emphasized that the trial court's misappreciation of the evidence is a mere error of judgment that does not qualify as an exception to the "finality-of-acquittal" doctrine.[39] In another case of *People v. Sandiganbayan (Fourth Division)*,[40] the Court held that a claim that the Sandiganbayan grossly misappreciated the facts and evidence of the case does not render the trial a sham to fall within the limited exception to the "finality-of-acquittal" rule.[41] As well, in *People v. Court of Tax Appeals-Third Division*,[42] the Court dismissed the petition for certiorari assailing the accused's acquittal and held that the writ of certiorari does not include the correction of evaluation of evidence. Certiorari will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court.[43]

Proceeding from the foregoing, the limited exception to the "finality-of-acquittal" rule does not apply here. It is immaterial whether the RTC erred in its appreciation of the relevant law and the parties' respective evidence. This is, at most, merely an error of judgment, which is not correctible by certiorari. More importantly, the fact remains that Rebuta's right against double jeopardy already attached when the RTC, after a full-blown trial and considering the evidence on record, found reasonable doubt to convict Rebuta of the charges against her. What is necessary for the Court to determine is whether the prosecution was denied due process. Absent any allegation and proof that the State was denied its day in court, which are clearly not obtaining in this case, the "finality-of-acquittal" rule must strictly be adhered to. Further, regardless of whether this Court, or the CA, believes that Rebuta should have been convicted of the crime charged, the RTC Joint Decision acquitting Rebuta cannot be revisited without putting her twice in jeopardy. In this light, the Court's pronouncement in *People v. Sandiganbayan (First Div.)*,[44] is apropos:

When a defendant has been acquitted of an offense, the clause guarantees that the State shall not be permitted to make repeated attempts to convict him, thereby subjecting him to embarrassment, expense, and ordeal, and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty.

Thus, it is one of the elemental principles of criminal law that the government cannot secure a new trial by means of an appeal even though an acquittal may appear to be erroneous. That judgment of acquittal, however erroneous, bars further prosecution on any aspect of the count, and consequently, bars appellate review of the trial court's error. Unless grave abuse of discretion amounting to lack of jurisdiction is shown, the errors committed by the trial court in the exercise of its jurisdiction, or even the legal soundness of such decision, errors of judgment, mistakes in its findings and conclusions, are not proper subjects of appeal under Rule 45 of

the Rules of Court.

An acquittal represents the fact finder's conclusion that, under the controlling legal principles, the evidence does not establish that defendant can be convicted of the offense charged in the indictment. An acquittal is a resolution, correct or not, some or all of the factual elements of the crime charged. For a ruling to be considered a functional acquittal, it must speak of the factual innocence of the accused. However, the judgment does not necessarily establish the criminal defendant's lack of criminal culpability. The acquittal may result from erroneous evidentiary rulings or erroneous interpretations governing legal principles introduced by the defense, yet the Double Jeopardy Clause bars an appeal.

One other reason why further prosecution is barred to appeal an acquittal is that the government has already been afforded one complete opportunity to prove a case of the criminal defendant's culpability and, when it has failed for any reason to persuade the court not to enter a final judgment favorable to the accused, the constitutional policies underlying the ban against multiple trials become compelling. It matters not whether the final judgment constitutes a formal "acquittal." What is critical is whether the accused obtained, after jeopardy attached, a favorable termination of the charges against him. If he did, no matter how erroneous the ruling, the policies embodied in the Double Jeopardy Clause require the conclusion that further proceedings devoted to the resolution of factual issues on the elements of the offense charged are barred.

The public interest in the finality of criminal judgments is so strong that an acquitted defendant may not be retried even though the acquittal was based upon an egregiously erroneous foundation. If the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair. Because jeopardy attaches before the judgment becomes final, the constitutional protection also embraces the defendant's valued right to have his trial completed by a particular tribunal. Consequently, as a general rule, the prosecutor is entitled to one, and only one, opportunity to require an accused to stand trial. The reason is not that the first trial established the defendant's factual innocence, but rather that the second trial would present all the untoward consequences that the clause was designed to prevent. The government would be allowed to seek to persuade a second trier of the fact of the defendant's guilt, to strengthen any weaknesses in its first presentation, and to subject the defendant to the expense and anxiety of a second trial.^[45] (Emphasis and underscoring supplied; citations omitted)

Accordingly, I vote to grant the instant Petition, reverse and set aside the assailed CA Decision and Resolution, and reinstate the Joint Decision of the RTC acquitting Rebuta of all charges.

[1]Rollo, pp. 9-25.

[2]Id. at 76-91. Penned by Presiding Judge Ma. Susana T. Baua.

[3] 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 No. (RA) 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, 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.)

[4]Id.

[5] Entitled, "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," approved on May 26, 2003.

[6] Entitled, "An Act Expanding Republic Act No. 9208, Entitled '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,'" approved on February 6, 2013.

[7] Entitled, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes," approved on June 17, 1992.

[8] Entitled, "An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, amending for this Purpose Republic Act No. 7610, as amended, Otherwise Known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act," approved on December 19, 2003.

[9]See Decision dated September 26, 2018 and Resolution dated March 4, 2019 of the CA in CA-G.R. SP No. 07226, both penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Edgardo A. Camello and Walter S. Ong, rollo, pp. 26-46 and 47-50, respectively.

[10]See id. at 27-31, CA Decision.

[11]Id. at 31.

[12]Id. at 91.

[13]Supra note 3.

[14]Id.

[15]Id.

[16]Id.

[17]Id.

[18]Id.

[19]Id.

[20]Rollo, pp. 88-90.

[21]Id. at 37, CA Decision.

[22]Id. at 46.

[23]Id.

[24]Id. at 39-42.

[25]See id. at 18-20.

- [26] *People v. Judge Declaro*, 252 Phil. 139, 143 (1989).
- [27] *People v. Hon. Nitafan*, 362 Phil. 58, 74 (1999).
- [28] Rollo, p. 31, CA Decision.
- [29] *Id.* at 35.
- [30] *Id.* at 91.
- [31] See *People v. Hon. Velasco*, 394 Phil. 517 (2000).
- [32] *Chiok v. People*, 774 Phil. 230, 248 (2015); citation omitted.
- [33] *Supra* note 31.
- [34] *Id.* at 555-556.
- [35] See *Raya v. People*, G.R. No. 237798, May 5, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67716>>; *People v. Sandiganbayan (Fourth Division)*, G.R. No. 228281, June 14, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67639>>; *Cogasi v. People*, G.R. No. 249002, August 4, 2021.
- [36] *Sps. Delos Santos v. Metropolitan Bank and Trust Company*, 698 Phil. 1, 14(2012).
- [37] G.R. No. 248567, November 10, 2020.
- [38] *Supra* note 35.
- [39] *Id.* at 7.
- [40] *Supra* note 35.
- [41] *Id.*
- [42] G.R. Nos. 251270 & 251291-301, September 5, 2022.
- [43] *Id.* at 16.
- [44] 524 Phil. 496 (2006).
- [45] *Id.* at 520-522.

DISSENTING OPINION

SINGH, J.:

I respectfully dissent from the ponencia's disposition granting the Petition for Review on Certiorari under Rule 45 of the Rules of Court filed by the petitioner Marian Rebuta y Sedaño (Rebuta).

My dissent is grounded on several factors: first, contrary to the ponencia, I find that the Petition should be deemed seasonably filed; second, the failure of the OSG to specify its prayer is patently inadvertent; third, no double jeopardy exists because the RTC acted with grave abuse of discretion; and fourth, the warrantless arrest and seizure during the raid were valid.

Based on all these, the inevitable conclusion is that the Petition failed to show any substantial reason to warrant

the exercise of the Court's discretionary power to review the challenged Joint Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 07226.

The Petition should be deemed seasonably filed

Rebuta harps on the alleged failure of the People to file its Rule 65 Petition on time. According to Rebuta, the People filed its Motion for Extension to file the said Petition on January 18, 2016, beyond the 60-day period under Rule 65.[1] Counted from the promulgation of the Joint Decision on November 16, 2015, the OSG only had until January 15, 2016 within which to file a Petition for Certiorari or a motion to extend its filing.[2]

This much, the OSG admitted.[3] The OSG confirmed that it was three days late in filing its Motion for Extension of time, but prayed in the same Motion for the relaxation of procedural rules given that it received the Indorsement of the Department of Justice (DOJ) only on January 15, 2016.[4] The OSG also invoked the application of the case of *Mid-Islands Power Generations Corp. v. Court of Appeals*,[5] where the Supreme Court affirmed the CA's approval of a motion for extension to file a Rule 65 Petition.

The CA thus did not err in granting the OSG's Motion for Extension in the February 15, 2016 Minute Resolution.[6] As pointed out by the CA in the assailed Resolution, Rebuta was silent and failed to call out the OSG regarding its belated filing.[7] She did not file an opposition thereto, nor questioned it in her Comment.[8] Although Rebuta brought up such issue in her Memorandum before the CA, the CA noted that the very same Memorandum was also filed after it had already rendered the assailed Decision.[9] Thus, the CA simply noted it without further action[10]

Moreover, the CA was correct in highlighting the seriousness of the subject matter: multiple counts of trafficking committed against five minors.[11] The CA aptly ruled that a three-day tardiness is justifiable under the circumstances.[12]

It should be mentioned that Rule 65 is silent on whether a petitioner may first seek an extension of the 60-day period to file a Petition for Certiorari.[13] *Laguna Metts Corp. v. Court of Appeals* is instructive that removal of the extension clause was "to prevent the use or abuse of the remedy of petition for certiorari in order to delay a case or even defeat the ends of justice." [14] Nonetheless, the Court has ruled that "the deletion of the clause in Section 4, Rule 65 by A.M. No. 07-7-12-SC did not, ipso facto, make the filing of a motion for extension to file a Rule 65 petition absolutely prohibited." [15]

The relaxation of the 60-day period to file a Rule 65 Petition has thus been observed under the following circumstances: (1) the existence of most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake, or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances.[16]

Indeed, while the Motion for Extension itself was filed three days after the expiration of the 60-day period for the People to raise jurisdictional errors with respect to Rebuta's and Delgado's acquittal, the importance of the subject matter, that is, multiple counts of trafficking of persons with minors as victims, as well as the glaring error of the

RTC, were compelling reasons to allow the same.

The failure of the OSG to specify its prayer is patently inadvertent

There is no merit to Rebuta's contention that the CA should not have granted the Petition for Certiorari filed by the OSG because it failed to specify its prayer. True, it is well-settled that courts cannot grant a relief not prayed for in the pleadings or in excess of what is being sought by a party to a case.[17] However, an examination of the OSG's Petition shows that the omission is patently inadvertent.[18] The allegations in the OSG's Petition clearly show that it had sought the nullification of the October 30, 2015 Joint Decision because it was issued with grave abuse of discretion.[19] The fact that a Rule 65 Petition was filed speaks for itself.

When grave abuse of discretion taints a judgment, it becomes wholly void.[20] There is grave abuse of discretion when there has been an evasion of a positive duty or a virtual refusal to perform a duty prescribed by law or to act in accordance with law, such as when a judgment was rendered not on the basis of law and evidence, but on caprice, whim, and despotism.[21]

The Joint Decision manifestly ignored the categorical language of Section 3(a) of R.A. No. 9208.

SEC. 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. (Emphasis supplied)

The mere recruitment of a minor, even without the employment of the means of trafficking, is sufficient to justify a conviction under R.A. No. 9208, as amended, particularly, qualified trafficking.[22] The victim's consent is rendered irrelevant due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking.[23] Even without the use of coercive, abusive, or deceptive means, a minor's consent is deemed not given out of his or her own free will.[24]

When Rebuta recruited and/or allowed the private complainants to be employed in her establishment, she failed to exercise due diligence in ascertaining whether they were eligible to work. The private complainants categorically testified that they were engaged in pornographic performances in one form or another, or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety and/or morals. Rebuta is undoubtedly guilty of qualified trafficking.

No double jeopardy exists because the RTC acted with grave abuse of discretion

Rule 117, Section 7 provides:

Section 7. Former conviction or acquittal; double jeopardy. -- When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of

competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

In the recent case of *Austria v. AAA and BBB*,^[25] the Court again reiterated that the constitutional right of the accused against double jeopardy attaches only when the following elements concur: (1) the accused is charged under a complaint or information sufficient in form and substance to sustain their conviction; (2) the court has jurisdiction; (3) the accused has been arraigned and has pleaded; and (4) the accused is convicted or acquitted, or the case is dismissed without his/her consent^[26]

However, the Court has also consistently recognized that a judgment of acquittal may be assailed through a petition for certiorari under Rule 65 of the Rules of Court. In *People v. Alejandro*,^[27] the Court ruled that the rule on double jeopardy is not without exceptions, which are: (1) where there has been deprivation of due process and where there is a finding of a mistrial, or (2) where there has been a grave abuse of discretion under exceptional circumstances.

Because of its very nature, a Rule 65 Petition, which is meant to correct errors of jurisdiction, does not violate the proscription against double jeopardy.^[28]

As a general rule, the prosecution cannot appeal or bring error proceedings from a judgment rendered in favor of the defendant in a criminal case. The reason is that a judgment of acquittal is immediately final and executory, and the prosecution is barred from appealing lest the constitutional prohibition against double jeopardy be violated. Section 21, Article III of the Constitution provides:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Despite acquittal, however, either the offended party or the accused may appeal, but only with respect to the civil aspect of the decision. Or, said judgment of acquittal may be assailed through a petition for certiorari under Rule 65 of the Rules of Court showing that the lower court, in acquitting the accused, committed not merely reversible errors of judgment, but also exercised grave abuse of discretion amounting to lack or excess of jurisdiction, or a denial of due process, thereby rendering the assailed judgment null and void. If there is grave abuse of discretion, granting petitioner's prayer is not tantamount to putting private respondents in double jeopardy.^[29]

In *People v. CA and Galicia*,^[30] the Court reiterated that in a special civil action for certiorari questioning an acquittal, the appealing party, whether the State or the private complainant, must demonstrate that the lower court, though conferred with jurisdiction, blatantly abused its authority.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility, and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined by law, or to act at all in contemplation of law. Certiorari alleging grave abuse of discretion is an extraordinary remedy. Its use is confined to extraordinary cases wherein the action of the inferior court is wholly void. Its aim is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction. No grave abuse of discretion may be attributed to the court simply because of its alleged misappreciation of facts and evidence. While certiorari may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice. ^[31]

To reiterate, a void judgment is, in legal effect, no judgment at all.[32] By it no rights are divested.[33] Thus, an acquittal made under a judgment rendered with grave abuse of discretion is not the acquittal to which the protection against double jeopardy applies. A void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it.[34] Because of grave abuse of discretion, the tribunal is effectively nullified of its jurisdiction, which consequently cancels out the second element in double jeopardy.

There is grave abuse of discretion where power is exercised in an arbitrary, capricious; whimsical or despotic manner by reason of passion or personal hostility; patent and gross as to amount to evasion of positive duty or virtual refusal to perform a duty enjoined by law.[35] While certiorari may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.[36]

Here, it is impossible not to see that the abuse of discretion committed by the RTC is so grave that it was effectively ousted of its jurisdiction, which prevented the first jeopardy from ever attaching. The grave abuse of discretion committed is so exceptional because it pertained to the RTC's own duty to take mandatory judicial notice of the entirety of Section 3(a) of R.A. No. 9208, which spells out in no uncertain terms that the means of coercion, abuse or deception need not apply when the trafficked person is a minor. Rule 129, Section 1 of the Revised Rules on Evidence, as amended, is unmistakable that it is the court's duty to take judicial notice of official acts of the legislative department, i.e., the laws that Congress enacts. Its error, thus, does not pertain to a mere error of judgment, but an error of jurisdiction, a blatant and patent disregard of the plain language of the law. Neither is it a simple matter of misappreciation of the facts and the evidence, because the omission is a complete disregard of the law.

An examination of the Petition for Certiorari filed by the OSG shows that it imputed grave abuse of discretion on the part of the RTC for acquitting Rebuta and Delgado, contrary to law and jurisprudence.[37] Although the RTC is clothed with jurisdiction to try and decide trafficking in persons cases, it was not at liberty to ignore the crystal clear statutory definition that trafficking in persons can still be committed even if the recruitment of a minor does not involve coercive, abusive, or deceptive means.

In this case, the RTC clearly omitted application of the second paragraph of Section 3(a) of R.A. No. 9208, as amended, in its disquisition, which is crucial because it pertains to the elements of the crime of trafficking of persons.

First, as to the charge of Qualified Trafficking in Persons in Crim. Cases Nos. 19762 to 19765 and 20113, particular Sections 3(c) [sic] and 4(a) of Rep. Act No. 9208, the Court hereby adopts and makes as integral part hereof the discussion on this matter contained in its Resolution dated May 15, 2014, as follows:

Rep. Act No. 908 [sic] has been explained as follows:

Section 3(a) of Republic Act No. 9208 (RA 9208), otherwise known as the Anti-Trafficking in Persons Act of 2003, defines Trafficking in Persons, as follows:

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.

xxx xxx xxx

The Anti-Trafficking in Persons Act is a new law passed last 26 May 2003, designed to criminalize the act of trafficking in persons for prostitution sexual exploitation, forced labor and slavery, among others.

From the facts above-narrated, it is clear that no threat, force, coercion, abduction, fraud and/or deception was exercised by either of the accused Rebuta or Delgado to compel the private complainants to work as GRO's in the Apple Bar for the purpose of exploiting them for prostitution. On the contrary, it was the private complainants themselves who voluntarily applied for their jobs as such GRO's and by lying about their ages, were the ones who employed deception so that they may be hired by Rebuta.[38] (citations omitted; emphasis supplied)

In fact, I cannot but express bafflement why the RTC omitted the second paragraph of Section 3(a) of R.A. No. 9208, as amended, in its Joint Decision. It should be pointed out that the RTC merely adopted and made integral to the Joint Decision "the discussion on this matter contained in its Resolution dated May 15, 2014." [39] While the portion of its discussion in the said Resolution was reproduced, the RTC's reference left out the entirety of the second paragraph of Section 3(a) which expressly provides that the recruitment, among others, 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.

It is also noteworthy that the RTC omitted the second paragraph of Section 3(a) of R.A. No. 9208 twice: in the Resolution dated May 15, 2014, and in the assailed Joint Decision dated October 30, 2015, which cites the said Resolution. Its act smacks of utter caprice and arbitrariness and should be annulled for being an error of jurisdiction.

This omission amounts to an evasion of a positive duty to apply the entire text of the law, not merely parts of it which are convenient. The RTC cannot close its eyes to the express provision of law, especially when it refers to the very elements of the crime that the prosecution seeks to prove. Grave abuse of discretion, as an exception to the rule against double jeopardy, is patent and the Joint Decision is consequently rendered in excess of jurisdiction and thus null and void.

The warrantless arrest and seizure during the raid were valid

With respect to Rebuta's allegations that the raid was an impermissible warrantless arrest, the contention is equally untenable.

It bears noting that Rebuta never bothered to raise the illegality, much less the irregularity, of her arrest before her arraignment. The right to question the validity of an arrest may be waived if the accused, assisted by counsel, fails to object to its validity before arraignment.[40] In her Omnibus Motion to Quash and Fix Bail,[41] Rebuta mainly argued that she did not force or otherwise coerce the private complainants to work for her, and therefore the facts averred in the Informations against her do not constitute an offense.[42] Nowhere did Rebuta bother to raise the issue of her arrest.

People v. Valencia and Simbillo[43] is instructive:

There is entrapment when law officers employ ruses and schemes to ensure the apprehension of the criminal while in the actual commission of the crime. There is instigation when the accused is induced to commit the crime. The difference in the nature of the two lies in the origin of the criminal intent. In entrapment, the mens rea originates from the mind of the criminal. The idea and the resolve to commit the crime comes from him. In instigation, the law officer conceives the commission of the crime and suggests to the accused who adopts the idea and carries it into execution.

Entrapment has been sanctioned as a means of arresting offenders who traffic persons. Casio explained the

import of entrapment operations and the flexibility accorded to police officers, especially in cases of human trafficking: In *People v. Padua*, this court underscored the value of flexibility in police operations:

A prior surveillance is not a prerequisite for the validity of an entrapment or buy-bust operation, the conduct of which has no rigid or textbook method. Flexibility is a trait of good police work. However, the police carry out its entrapment operations, for as long as the rights of the accused have not been violated in the process, the courts will not pass on the wisdom thereof. The police officers may decide that time is of the essence and dispense with the need for prior surveillance.

This flexibility is even more important in cases involving trafficking of persons. The urgency of rescuing the victims may at times require immediate but deliberate action on the part of the law enforcers.

Here, the prosecution established that accused-appellants were arrested in *fragrante delicto* when they peddled the women to the confidential asset who was accompanied by undercover police.[44] (citations omitted; emphasis supplied)

Failure by the accused to raise the issue of the illegality of the arrest before arraignment shall be deemed a waiver thereof.[45] Nowhere in the Motion to Quash did Rebuta or Delgado raise such an issue. They are now barred from raising the same on appeal.

The OSG is also correct that Rebuta's absence at Apple Bar during the raid did not render unlawful her subsequent arrest.[46] Section 26-A of R.A. No. 9208, as amended, clearly identifies trafficking in persons as a continuing offense.[47] As recounted by the CA, on the day of the raid, two operatives of the National Bureau of Investigation (NBI) went to Apple Bar "to confirm if indeed the minor girls were still" there.[48] It is noteworthy that Apple Bar has two branches, and the NBI operatives only raided the Dalisay-Gante branch, where the minor private complainants were discovered and confirmed to be working.[49] As such, her continued hiring of the minors constituted a continuing violation of R.A. No. 9208 and the raid on Apple Bar falls under the *in flagrante delicto* exception.

Conclusion

In sum, it is my studied position that the Decision, dated September 26, 2018, of the Court of Appeals in CA-G.R. SP No. 07226 is correct and should be affirmed. There exists no substantial, special, or cogent reason to warrant the Court's exercise of its discretionary appellate jurisdiction.

As a final note. These involve very serious charges for what is referred to as the modern day form of the evil of slavery, human trafficking, and not just simple but qualified human trafficking with not one (1), not two (2), but five (5) minors as victims. Human trafficking is an acknowledged crime against humanity that preys on the poverty-stricken members of our society. It thrives on subjugation and abuse, and is perpetuated through a financial stranglehold. Here, the accused Rebuta is the best exemplification of how this economic bondage is actualized at the expense of human lives, resulting to the destruction of Filipino families. The facts and evidence stand clearly bright in support of a conviction. The law is equally stark. The acquittal blatantly ignored both the evidence and the law. The Court should not allow this injustice to add to the violations committed against the minor victims in this case. Otherwise, it fails in its duty to uphold the law and to render justice.

[1]Rollo, pp. 13-14.

[2]Id.

[3]Id. at 95.

[4]Id. at 48.

[5] G.R. No. 189191, 683 Phil. 325 (2012).

[6]Rollo. p. 48.

[7]Id.

[8]Id.

[9]Id. at 49.

[10]Id.

[11]Id.

[12]Id.

[13]Daniel, Inc. Philippines v. Fil-Estate Properties, Inc., G.R. No. 212895, 27 November 2019.

[14]Id. citing Laguna Mells Corp. v. CA, 594 SCRA 139, 146 (2009).

[15]Id. citing Domdom v. Sandiganbayan, 627 Phil. 341 (2010).

[16]Id.

[17]Bucal v. Bucal, 760 Phil. 912, 921(2015).

[18]Rollo, p. 124.

[19]Id. at 108-109.

[20]Imperial and Nidslan Resources and Development Corp. v. Hon. Armes, 804 Phil. 439, 473 (2017).

[21]Amurao v. People and Sandiganbayan, G.R. No. 249168, April 26, 2021.

[22] Rep. Act No. 9208, Sec. 6(a), as amended by Rep. Act No. 10364.

[23]People v. Casio, 7-19 Phil. 458,475 (2014).

[24]Id.

[25] G.R. No. 205275, June 28, 2022.

[26]Id.

[27] G.R. No. 223099, January 11, 2018.

[28]People and AAA v. Court of Appeals, 755 Phil. 80. 97-98(2015)

[29]Id. at 97-98. (Citations omitted; emphasis supplied.)

[30] G.R. No. 159261, February 21, 2007.

[31]Id. (Citations omitted; emphasis supplied.)

[32] People v. Hon. Velasco, 394 Phil. 517 (2000), citing People v. Court of Appeals et al., 189 Phil. 340 (1980).

[33]Id.

[34]De Leon v. Court of Appeals, 435 Phil. 232 (2002).

[35]Non et al v. Ombudsman, G.R. No. 239168, September 15, 2020.

[36]People v. Court of Appeals, 545 Phil. 278 (2007).

[37]Rollo, p. 108.

[38]Rollo, pp. 87-89.

[39]Id. at 87.

[40]Lapi v. People, G.R. No. 210731. February 13, 2019.

[41]Rollo, pp. 53-57.

[42]Id.

[43] G.R. No. 234013, June 16, 2021.

[44]Id. (Citations omitted; emphasis supplied.)

[45]Vaporoso and Tulilik v. People, G.R. No. 238659, June 3, 2019.

[46]Rollo, pp. 271-272.

[47]Id.

[48]Id. at 32.

[49]Id.

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