

FIRST DIVISION

[G.R. No. 219952, November 20, 2017]

PEOPLE OF THE PHILIPPINES, PETITIONER, V. JEHLSON AGUIRRE Y ARIDIDON, MICHAEL ARABIT Y PACAMARA, JEFFERSON PARALEJAS Y PIGTAIN AND JEFFREY ROXAS Y ARAGONCILLO, ACCUSED, JEHLSON AGUIRRE Y ARIDIDON, MICHAEL ARABIT Y PACAMARA AND JEFFERSON PARALEJAS Y PIGTAIN, ACCUSED-APPELLANTS.

DECISION

TIJAM, J.:

This is an appeal from the Decision^[1] dated August 29, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06220, which affirmed the conviction of accused-appellants Jehlson Aguirre y Arididon (Aguirre), Michael Arabit y Pacamara (Arait) and Jefferson Paralejas y Pigtain (Paralejas) for the crime of Qualified Trafficking in Persons, as rendered by the Regional Trial Court (RTC) of Quezon City, Branch 106 in its Judgment^[2] dated May 28, 2013 in Criminal Case No. Q-10-167652.

The Facts

Accused-appellants and accused Jeffrey Roxas y Aragoncillo (Roxas) were charged with Qualified Trafficking in Persons under Sections 3(a), 4(a) and 6 of Republic Act No. (RA) 9208, or the Anti-Trafficking in Persons Act of 2003, in relation to violation of RA 7610, known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, for recruiting, transporting, harboring, providing or receiving, in conspiracy with one another, ten girls, including seven minors, for purposes of prostitution and sexual exploitation^[3].

Of the ten girls, four testified in Court against accused-appellants private complainants AAA, BBB, CCC and DDD. Their testimonies showed that at different times on November 16, 2010, they were convinced by accused-appellants to go swimming and drinking, and to have sex, with foreigners in exchange for money and/or *shabu*. Arait and Aguirre convinced AAA to go swimming and drinking with foreigners for which she would get paid. As on a previous occasion, accused-appellants induced BBB to have sex with a man in exchange for money and *shabu*. CCC, who had been invited by her classmate and Arait's cousin, EEE, to go drinking with their high school friends, went with EEE to Arait's house where accused-appellants told them that they would go drinking with some foreigners in Quezon City in exchange for money. DDD initially declined Aguirre's proposition to introduce her to a foreigner who would give them money and *shabu* for sex with her. She relented after hearing that aside from money, they would also have one "*bulto*" of *shabu* for their personal use. Thereafter, Paralejas fetched DDD from her house. Private complainants and six other girls (EEE, FFF, GGG, HHH, III and JJJ) were later assembled at Arait's house where accused-appellants told them to primp themselves as they had to look good for the foreigners. Subsequently, a white van

arrived and all ten girls, together with accused-appellants and Roxas, boarded the van and travelled to Quezon City. On the way, Aguirre told the girls that they would be meeting some foreigners who would take them abroad. At 7:00 p.m., they reached a two-storey apartment in Quezon City, where they would rest after which they would proceed to a hotel to meet the foreigners. Inside the apartment, the girls, as instructed by accused-appellants, fixed their clothes and make-up to look pleasing to the foreigners. Arabit and Paralejas also instructed the girls not to leave the house. Arabit and Aguirre then offered to the girls what appeared to be *shabu*, which was payment for sex with the foreigners in addition to money. Six of the girls accepted and they were separated from the rest. They were looking for aluminum foil for the *shabu* when there was suddenly a commotion. Several people, who came running down from the second floor of the apartment, identified themselves as the police and told the girls to sit together. The police officers arrested accused-appellants and Roxas.^[4]

The police officers were members of the Criminal Investigation Division Group - Women and Children Protection Division (CIDG-WCPD) who acted on information from a civilian informant of "Tutok-Tulfo," a television program aired over TV Channel 5, that a certain "Booba" and his cohorts would be bringing at least ten women to said informant in an unoccupied apartment in Quezon City, to be distributed in clubs and *videoke* bars around Metro Manila as prostitutes/entertainers. Police team leader SPO1 Robert Eblahan testified that they had positioned themselves on the second floor of the apartment when they heard a group enter. Shortly thereafter, a male voice said, "*Kuya, asan na ang komisyon ko?*" Another male voice answered "*O, ayan, kumpleto na yan!*" The first male voice replied, "*Ay, salamat kuya!*" Upon receiving the prearranged signal from the civilian informant through their mobile phone, the police went down from the second floor and effected the arrest of accused-appellants, all known homosexuals, and Roxas, and referred the ten girls to the social workers.^[5]

Testifying for their own defense, accused-appellants and Roxas denied the charge. They claimed that they were each simply invited to a swimming and drinking party.^[6]

Aguirre claimed that he received the invitation from Paralejas who gave him the directions to the apartment. Inside the apartment, he asked Paralejas if there would be a drinking and swimming party, and Paralejas told him that they were just waiting for FFF to arrive before they could go swimming. Looking around the apartment, he saw Arabit and eleven women before police came running down from the second floor.^[7]

Paralejas, in turn, claimed that after EEE invited him to go swimming, they were fetched by a white van with four women already on board whom he did not know. The van took them to the apartment where Aguirre, Arabit and Roxas later arrived with some women. At that moment, policemen came down from the second floor and caused their arrest.^[8]

For his part, Arabit claimed that he had accepted his kumare GGG's invitation to go swimming and drinking. He proceeded to the apartment with sisters GGG and JJJ, aided by instructions texted by his cousin EEE. Other people were in the apartment when they arrived and EEE told them to wait for the vehicle that would take them to the resort. As they waited, people, who identified themselves as policemen, came

running down from the second floor and arrested him and the other accused-appellants.^[9]

Arabit admitted knowing Paralejas, Aguirre and Roxas. Among the ten^[10] girls found in the apartment, he claimed to know only GGG, JJJ and EEE, alleging that their arrest was the first time had seen the other girls.

According to Roxas, he agreed to join them when Paralejas invited him to a drinking party. A van subsequently took them, along with the other accused-appellants and "many girls," to a two-storey apartment in Quezon City. While he was left outside the apartment, he was handcuffed and brought inside by a man wearing a black jacket after he admitted knowing Paralejas.^[11]

The RTC's Ruling

In its Judgment^[12] dated May 28, 2013, the RTC convicted accused-appellants of the crime of Qualified Trafficking in Persons and sentenced each of them to suffer the penalty of life imprisonment and to pay the fine of P2 million, with subsidiary imprisonment in case of insolvency. The RTC also ordered each of the accused-appellants to pay AAA, BBB, CCC and DDD P100,000 each as moral damages and P50,000 each as exemplary damages, and to pay the costs of suit.^[13]

According to the RTC, while CCC and DDD were minors at the time of the commission of the crime, the Information alleged that DDD was already of legal age. It nonetheless considered CCC's minority as a qualifying circumstance but not that the crime was committed by a syndicate (involving three or more conspirators)^[14] and in large scale (involving three or more victims)^[15] as the same was not alleged in the Information. ^[16]

The RTC did not convict accused-appellants under RA 7610, holding that such a conviction would violate accused-appellants' constitutional right as the Information did not state the particular provision of said law — whether it is "Child Prostitution and Other Sexual Abuse" under Section 5 or "Child Trafficking" under Section 7- that was violated.^[17]

The RTC acquitted Roxas, finding doubt in his participation in the crime after private complainants denied knowing him and testified to only seeing him inside the white van that brought them to Quezon City.^[18]

Accused-appellants appealed the RTC's Judgment to the CA on the sole ground that their guilt was not proven beyond reasonable doubt. They argued that the evidence used by the prosecution to prove the purpose for which the girls were "recruited and transported" to the apartment was based on hearsay, and that there was no evidence that said apartment was a brothel or a prostitution den.^[19]

The CA's Ruling

On August 29, 2014, the CA rendered the assailed Decision affirming the RTC's Judgment, subject to the modification that: (a) accused-appellants are jointly and severally liable to pay each of the private complainants the sums of P100,000 as moral damages and P50,000 as exemplary damages, and (b) interest at six percent

(6%) *per annum* is imposed on the total monetary award from the finality of the decision until full payment.^[20]

The Court's Ruling

The appeal lacks merit.

It has been an established rule in appellate review that the trial court's factual findings - including its assessment of the credibility of the witnesses, the probative weight of their testimonies, and the conclusions drawn from the factual findings - are accorded great respect and even conclusive effect.^[21] These factual findings and conclusions assume greater weight if they are affirmed by the CA, as in this case.^[22] The Court refrains from disturbing the CA's findings if no glaring errors bordering on a gross misapprehension of facts can be gleaned from them.^[23]

The Court finds no reason to overturn the CA's findings and conclusion as to the guilt of accused-appellants.

Based on Section 3(a) of RA 9208,^[24] the elements of trafficking in persons are:

- (1) The act of "recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders;"
- (2) The means used which include "threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another;" and
- (3) The purpose of trafficking is exploitation which includes at a minimum "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."^[25]

The prosecution has satisfactorily established these elements.

Private complainants' testimonies show that accused-appellants lured them into prostitution with the promise of financial benefit, the chance to use *shabu* and to travel abroad. Aguirre expressly induced BBB and DDD to have sex with foreigners in exchange for money and *shabu*. Paralejas fetched DDD from her home and brought her to Arabit's house. Together with AAA and CCC, who had likewise been enticed with money to go drinking with foreigners, and six other girls, they were made to gather at Arabit's house where accused-appellants instructed them to primp themselves to look good for the foreigners. Accused-appellants subsequently had all ten girls board a van and transported them from Arabit's house in XXX to an apartment in Quezon City from which they would proceed to a hotel to meet the foreigners. *En route* to Quezon City, Aguirre told the girls that the foreigners would take them abroad. When they arrived at the apartment, accused-appellants forbade the girls from leaving and instructed them anew to fix their clothes and make-up. Later, Arabit and Aguirre offered all the girls what appeared to be *shabu* as payment for sex with the foreigners in addition to money.^[26]

Accused-appellants' actions clearly indicate their intention to exploit private complainants. They establish beyond reasonable doubt that accused appellants recruited and transported private complainants for purposes of prostitution and sexual exploitation.

As the RTC found, private complainants were still in their teens when they testified. That accused-appellants took advantage of their youth and vulnerability is, thus, beyond doubt. In fact, as the RTC noted, DDD testified that although she agreed to have sex with a foreigner, she felt scared and even wanted to turn back but had no choice because they were already in Quezon City.^[27]

To be sure, the recruitment and transportation punished under Section 3(a) of RA 9208 may be "with or without the victim's consent or knowledge." Thus, it is of no moment that accused-appellants obtained the consent of private complainants. Furthermore, as the CA noted, BBB, CCC and DDD were proven to be below 18 years old on the date the crime was committed; BBB was 14 years of age, while CCC and DDD were both 17 years old. They were, therefore, "children" within the purview of Section 3(b) of RA 9208.^[28] Section 3(a) of RA 9208 explicitly provides that when the victim is a minor, the recruitment or transportation need not involve *"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."* Indeed, this Court has ruled that "[e]ven without the use of coercive, abusive, or deceptive means, a minor's consent is not given out of his or her own free will."^[29]

Private complainants' testimonies have likewise established conspiracy among accused-appellants. Conspiracy is the common design to commit a felony.^[30] Direct proof, however, is not essential to show conspiracy.^[31] It need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design.^[32] Proof of concerted action before, during and after the crime, which demonstrated their unity of design and objective is sufficient.^[33]

Accused-appellants' actions, as consistently and categorically narrated^[34] by private complainants under oath, unmistakably reveal "a common purpose and a community of interest indicative of a conspiracy."^[35] They were manifestly aimed at recruiting and transporting the victims for the purpose of exploiting them and offering them for prostitution.

Contrary to accused-appellant's argument, private complainants' testimonies as to what accused-appellants told them cannot be considered hearsay. True, a witness can testify only to those facts which he knows of his own personal knowledge, i.e., which are derived from his own perception; otherwise, such testimony would be hearsay.^[36] In this case, however, the alleged statements were addressed to and directed at private complainants themselves. Thus, private complainants testified to a matter of fact that had been derived from their own perception.^[37]

Indeed, it has been held that testimony of what one heard a party say is not necessarily hearsay. It is admissible in evidence, not to show that the statement was true, but that it was in fact made. If credible, it may form part of the circumstantial evidence necessary to convict the accused.^[38]