

SECOND DIVISION

[CA-G.R. CR-H.C. No. 05373, May 29, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARLON BORJA Y MILED, JUNEI CAZAR Y CARDONA, AND
EDELYN PATALINGHOG Y LEQUIGAN ACCUSED-APPELLANTS.**

D E C I S I O N

GAERLAN, S.H., J.:

Before Us is an appeal^[1] from a Decision^[2] dated 2 December 2011 of the Regional Trial Court of Quezon City, Branch 94, in Criminal Case No. Q-10-167295, wherein the accused-appellants were pronounced guilty beyond reasonable doubt of Violation of Section 4 (a) of Republic Act No. 9208 (R.A. 9208), otherwise known as the "Anti Trafficking in Persons Act of 2003," the dispositive portion of which reads:

*"**WHEREFORE**, judgment is hereby rendered finding accused Marlon Borja Y Miled, Junei Cazar Y Cardona, also known as John Cazar and Edelyn Patalinghog Y Lequigan **GUILTY** beyond reasonable doubt of violation of Section 4 (a) R.A. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003", and each of them is sentenced to suffer the penalty of LIFE IMPRISONMENT AND A FINE OF TWO (2) MILLION PESOS and to pay the costs.*

The period of their incarceration will be deducted in accordance with Article 29 of the Revised Penal Code of the Philippines.

SO ORDERED."

The information^[3] charging the accused-appellants of violation of Section 4 (a) of Republic Act No. 9208, reads:

"That on or between the period October 5 to October 29, 2010, in Quezon City, Philippines, the above-named accused, conspiring, confederating with two (2) other persons, whose true names, identities and whereabouts have not as yet been ascertained and mutually helping one another, did then and there, willfully, unlawfully, and feloniously recruit, transport, harbor, provide, introduce or match for money for the purpose of prostitution, pornography or sexual exploitation, the following trafficked persons, namely: APPLE LAMBOJON y CUZO, MA. GLORIA SILVERIO y IMBAT and ROSEMARIE SERRADOR y OSABEL, 17, 15 and 16 years of age, respectively, all minors, to their prejudice.

CONTRARY TO LAW."

Upon arraignment,^[4] accused-appellants pleaded not guilty to the violation charged. Pre-trial was conducted and terminated on November 22, 2010.^[5] Thereafter, trial

proceeded. The prosecution presented eight (8) witnesses, namely: 1) Maria Gloria Imbat y Silverio;^[6] 2) Rosemarie Serrador;^[7] 3) Apple Lambojon;^[8] 4) Mary Cris Gadi;^[9] 5) PO3 Veronica Villareal;^[10] 6) Eva Serrador;^[11] 7) PSI Reynold Macabitas;^[12] and 8) SPO1 Robert Eblahan, whose testimony was dispensed with after the prosecution and the defense stipulated as to his would be testimony. The defense presented the three (3) accused-appellants: 1) Marlon Borja;^[13] 2) Edelyn Patalinghog;^[14] and 3) Junei Cazar^[15] as witnesses.

THE FACTS

The Version of the Prosecution^[16]

"On 5 October 2010, at around 3:00 o'clock in the afternoon, Edelyn Patalinghog, texted Apple Lambojon, who was only sixteen (16) years old, inquiring from her if she wanted work. The two (2) of them have known each other through the child of Edelyn, Nonoy, who is a friend of Apple. Apple asked the nature of the work but Edelyn replied just to meet her at the bridge of EDSA, Munoz, Quezon City. Upon arriving at the said location, Apple met Edelyn Patalinghog, Marlon Borja, and Gilbert Palomar. Edelyn and Gilbert asked Apple if she wanted a job. Apple again inquired about the nature of the job but Edelyn did not answer. Edelyn instead told her to bring some friends along. Apple was enticed because of the offer that she will be given P5,000.00, clothing, food, shelter. She, along with Edelyn and Gilbert and Marlon, proceeded to the place of Maria Gloria Silverio.

Maria Gloria Silverio, who was then fifteen (15) years old, was in their house in Bagong Barrio Caloocan City. Thereafter, Apple appeared in her place together with certain persons whom she knew to be Edelyn Patalinghog, Gilbert Palomar and Marlon Borja. She was told by Apple Lambojon if she wanted a job. Maria Gloria inquired about the job, but Apple did not answer. Edelyn, Gilbert and Marlon only told her that if she would come with them, she will have five thousand pesos (P5,000.00). The five (5) of them, Maria Gloria Silverio, Apple Lambojon, Edelyn Patalinghog, Marlon Borja, and Gilbert Palomar went to Balintawak, Cloverleaf, Quezon City where they met Rosemarie Serrador, and Mary Cris Gadi. Mary Cris Gadi and Rosemarie Serrador, were likewise offered work by Edelyn Patalinghog and Marlon Borja when they met them after being introduced by Apple Lambojon.

Maria Gloria Silverio, Apple Lambojon, Mary Cris Gadi and Rosemarie Serrador agreed to pursue the work being offered by Edelyn Patalinghog and Marlon Borja despite not knowing the nature thereof. Thereafter, they proceeded to Cubao, Quezon City and boarded a Dagupan bus going to Tuguegarao, Cagayan. It was later on that they came to know that the place of their supposed work is Maddela Province of Quirino. Upon reaching Cordon, Isabela, they were introduced to a certain Junei Cazar who paid Marlon Borja their fare. Thereafter, they boarded a red van of Junei Cazar and proceeded to Maddela, Quirino. Upon arriving thereat at around 2:00 o'clock in the morning, they proceeded to the house of a certain Abet, the wife of Junei Cazar. They were given food to eat and were instructed to have some rest. On the second day after their arrival,

they started working at the "Abet's Videoke Bar". At first, they worked as waitress ("serbidora"). However, on the second day of their work, they were instructed to entertain guests. The customers would put their arms around them, kissed (sic) them, touched (sic) their private parts and required (sic) them to drink beer from which they had commission in the amount of fifty pesos (P50.00) ("Itini-table po kami, kami po ay umiinom ng beer at ang customer na umaakbay samin inaakbayan po ako. Nanghihiipo po sila") Sometimes, their guests would invite them out to have sex, but they did not accede to such request ("gagalawin kami", "Kakantutin po"). They stayed at the said house and worked at Abet's Videoke Bar for two (2) weeks. Thereafter, Maria Gloria Silverio and Rosemarie Serrador were transferred to Elmar Videoke Bar, also in Maddela, where they were made to perform the same task as that in Abet's Videoke Bar. They wanted to leave the place but they do not know what bus to ride and they do not have money to spare for fare.

On October 18, 2010, Mary Cris Gadi told Apple that she will escape. She asked permission from Abet to go to the market to buy slippers. She was permitted to, but she will have a companion. While her companion was busy doing errands, she asked that she will just buy something in the drug store but she ran and did not return to the Videoke Bar. Mary Cris boarded a vehicle going to Santiago, Isabela. On that night, she boarded a Baliwag Transit. A couple asked her why she was alone and Mary Cris replied that she "escaped". The couple accompanied her to the bus terminal where she slept.

On October 20, 2010, Mary Cris went back to their house in Balintawak, Quezon City and told her ordeals to her sister. Mary Cris likewise told her ordeal to Ena Serador, mother of Maria Gloria Serrador and told her that she worked with her daughter in Madella, Quirino in a Videoke Bar.

Mary Cris and Enah Serrador went first to the Barangay of Balintawak, Quezon City and from there, she was accompanied to the DSWD, Quezon City. At the DSWD, they were told that they cannot rescue her companions. They were referred to "Bitag", or "Tulfo". At the office of Bitag, she was told that her case will be referred to the NBI. Mary Cris, accompanied by Enah Serrador and Oscar Serrador, went to the NBI. Mary Cris was told at the NBI that they cannot rescue them due to the location of the place.

Mary Cris then proceeded to the CIDG on October 29, 2010. At the CIDG, the statement of Mary Cris was taken by PO3 Veronica Villareal. After the statement of Mary Cris was taken, Colonel Fajardo and Senior Inspector Macabitas planned to rescue the friends of Mary Cris in Maddela, Quirino, namely, Apple, Rosemarie, and Ria (the latter being Gloria Silverio). PO3 Villareal was given the authorization to conduct rescue operations in Maddela, Quirino. She coordinated with the CIDG in Quirino Province and after surveying the area, she coordinated with the local police officers of Maddela, Quirino.

On October 30, 2010, Captain Macabitas, with PO3 Villareal with the assistance of Maddela Police Personnel, proceeded to Abet Videoke Bar and Elmar Videoke Bar simultaneously and conducted the operation.

Apple Lambojon, Rosemarie Serrador, and Maria Gloria Silverio were rescued. Marlon Borja and Junei Cazar were apprehended and brought to the nearest police station in Maddela, Quirino. At around 9:30 o'clock in the evening, they proceeded to Manila. While on their way to Quezon City, PO3 Villareal convinced Apple to text Edelyn Patalinghog to meet her. Apple met Edelyn at Jollibee Sangandaan, Quezon City. PO3 Villareal alighted from their vehicle, pretended to be a bystander and immediately effected the arrest on Edelyn Patalinghog. Thereafter, Apple, Rosemarie and Maria Gloria were brought to Camp Crame, Quezon City along with Junei Cazar, and Marlon Borja.

Upon arriving at Camp Crame, Quezon City, PO3 Villareal prepared the operational procedures such as booking of the three (3) arrested persons, the medico legal or physical examination of the arrested persons and the minors and prepared the papers for inquest.

SPO1 Robert Eblahan conducted the investigation and he prepared the inquest referral.

The affidavits of Apple Lambojon, Rosemarie Serrador and Maria Gloria Silverio were prepared. Thereafter PO3 Villareal prepared her Joint Affidavit of Arrest which she and Inspector Macabitas signed.

On October 31, 2010, Junei Cazar, Marlon Borja and Edelyn Patalinghog were subjected to inquest for Violation of Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003" before the City Prosecutor's Office of Quezon City."

Version of the Defense^[17]

"Edelyn Patalinghog, along with her husband Gilbert Palomar, works at the carinderia of her mother-in-law. She knew the complainants because they were friends with her son. She saw the complainants at the bridge in Munoz waiting for their "sugar daddy." She always tells them not to stay at that bridge. On 5 October 2010, the complainants went to her home looking for her son, because they were going to Isabela for work and they wanted to bring her son along. However, her son did not want to, and instead Gilbert offered to go with them to Isabela. He returned immediately after. The complainants communicated by text message to Edelyn, telling her that they had reached Isabela and that their employer was kind and they were fine. She was not informed about what they did for a living.

Marlon Borja, an acquaintance of Gilbert Palomar, who sees the latter whenever Marlon is staying in Munoz, is employed by Junei Cazar who raises chickens. When the private complainants arrived at Maddela on 6 October 2010, Marlon at that time was feeding Cazar's chickens. The complainants told Marlon that they were at Maddela for a vacation. He remembers seeing them always happy and always going out. Junei Cazar, a farmer and fisherman who also raised poultry and pigs, was, on 29 October 2010, at Jones, Isabela because his brother had died. He arrived back at Maddela on 30 October 2010 and had a massage by Marlon. The door was forced open by the police that afternoon, who asked where Cazar and Abet was. When they could not find Abet, Marlon and Cazar

were told to come with the policemen. They were unable to do anything because they were handcuffed. At the police station, they were being asked to pay Forty Thousand (P40,000.00) pesos. Elmar, who was also arrested that day, was able to give money. Thereafter, he was released. Marlon and Cazar, however, were unable to give any money, and so they were brought to Camp Crame. Along the way, Edelyn was arrested. It was during this time that Edelyn first met Marlon and Cazar.

All of them deny the charges. Marlon was told by Apple that they really had no intention to bring them to jail, but Apple and the other complainants were threatened by the policemen to file charges against Marlon and Cazar or else, they themselves will be detained along with their parents."

On 2 December 2011, the court *a quo* rendered a decision finding the accused-appellants guilty beyond reasonable doubt of violation of Section 4 (a) R.A. 9208, otherwise known as the "Anti Trafficking in Persons Act of 2003," and each of them is sentenced to suffer the penalty of life imprisonment and a fine of two (2) million pesos and to pay the costs.

Unsatisfied with the decision of the court *a quo*, the accused-appellants instituted the instant appeal reiterating their innocence based on the following assignment of error:^[18]

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED WHEN THEIR GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

THIS COURT'S RULING

The appeal is devoid of merit.

The trial court did not find credible the bare denials of the accused-appellants over the candid, positive and convincing testimony of private complainants Maria Gloria Silverio, Rosemarie Serrador, and Apple Lambojon, as well as, the testimony of prosecution witness Mary Cris Gadi. A perusal of the Transcript of Stenographic Notes of the proceedings convinces Us that no reversible error was committed by the trial court when this case was decided.

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