



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-appellee,

G.R. No. 211465

Present:

CARPIO, J., Chairperson,
DEL CASTILLO,
VILLARAMA, JR.,*
MENDOZA, and
LEONEN, JJ.

-versus-

SHIRLEY A. CASIO,
Accused-appellant.

Promulgated:

DEC 03 2014

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DECISION

LEONEN, J.:

*"Chicks mo dong?"*¹

With this sadly familiar question being used on the streets of many of our cities, the fate of many desperate women is sealed and their futures vanquished. This case resulted in the rescue of two minors from this pernicious practice. Hopefully, there will be more rescues. Trafficking in persons is a deplorable crime. It is committed even though the minor knew about or consented to the act of trafficking.

* Designated Acting Member per Special Order No. 1888 dated November 28, 2014.

¹ Rollo, p. 4. The English translation for this is, "Do you like girls, guys?" "Chicks" is a colloquial term for girls in Cebuano.

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This case involves Republic Act No. 9208,² otherwise known as the “Anti-Trafficking in Persons Act of 2003.”³

Accused Shirley A. Casio was charged for the violation of Republic Act No. 9208, Section 4(a), qualified by Section 6(a). The information against accused, dated May 5, 2008, states:

That on or about the 3rd day of May 2008, at about 1:00 o’clock A.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, with intent to gain, did then and there hire and/or recruit AAA, a minor, 17 years old and BBB for the purpose of prostitution and sexual exploitation, by acting as their procurer for different customers, for money, profit or any other consideration, in Violation of Sec. 4, Par. (a), Qualified by Sec. 6, Par. (a), of R.A. 9208 (Qualified Trafficking in Persons).

CONTRARY TO LAW.⁴

The facts, as found by the trial court and the Court of Appeals, are as follows:

On May 2, 2008, International Justice Mission (IJM),⁵ a non-governmental organization, coordinated with the police in order to entrap persons engaged in human trafficking in Cebu City.⁶

Chief PSI George Ylanan, SPO1 Felomino Mendaros, SPO1 Fe Altubar, PO1 Albert Luardo, and PO1 Roy Carlo Veloso composed the team of police operatives.⁷ PO1 Luardo and PO1 Veloso were designated as decoys, pretending to be tour guides looking for girls to entertain their guests.⁸ IJM provided them with marked money, which was recorded in the police blotter.⁹

² 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.

³ Note that the offense was committed on May 2, 2008, prior to the enactment of Rep. Act No. 10364, which amended Rep. Act No. 9208. Thus, the provisions of Rep. Act No. 9208 cited in this case are the original provisions.

⁴ CA *rollo*, p. 8. Although the information states, “3rd day of May 2008,” the record of the case shows that the offense was committed on May 2, 2008.

⁵ International Justice Mission, *Get To Know Us* <<https://www.ijm.org/get-to-know-us>> (visited November 26, 2014). International Justice Mission or IJM is a United States-based human rights organization, founded in 1997, which aims to “protect the poor from violence.” International Justice Mission, *Where We Work* <<https://www.ijm.org/where-we-work>> (visited November 26, 2014). At present, IJM has partner offices in Canada, United Kingdom, Netherlands, and Germany. IJM also has field offices in Latin America, India, Africa, Southeast Asia including the Philippines.

⁶ *Rollo*, p. 4.

⁷ *Id.* at 6.

⁸ *Id.* at 4.

⁹ *Id.*

The team went to Queensland Motel and rented Rooms 24 and 25. These rooms were adjacent to each other. Room 24 was designated for the transaction while Room 25 was for the rest of the police team.¹⁰

PO1 Luardo and PO1 Veloso proceeded to D. Jakosalem Street in Barangay Kamagayan, Cebu City's red light district. Accused noticed them and called their attention by saying "*Chicks mo dong?*" (Do you like girls, guys?).¹¹

During trial, PO1 Luardo and PO1 Veloso testified that their conversation with accused went as follows:

Accused: Chicks mo dong? (Do you like girls, guys?)

PO1 Luardo: Unya mga bag-o? Kanang batan-on kay naa mi guests naghulat sa motel. (Are they new? They must be young because we have guests waiting at the motel.)

Accused: Naa, hulat kay magkuha ko. (Yes, just wait and I'll get them.)¹²

At that point, PO1 Luardo sent a text message to PSI Ylanan that they found a prospective subject.¹³

After a few minutes, accused returned with AAA and BBB, private complainants in this case.¹⁴

Accused: Kining duha kauyon mo ani? (Are you satisfied with these two?)

PO1 Veloso: Maayo man kaha na sila modala ug kayat? (Well, are they good in sex?)¹⁵

Accused gave the assurance that the girls were good in sex. PO1 Luardo inquired how much their services would cost. Accused replied, "*Tag kinientos*" (₱500.00).¹⁶

¹⁰ Id.

¹¹ Id.

¹² Id. at 4–5.

¹³ Id. at 5.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

PO1 Veloso and PO1 Luardo convinced accused to come with them to Queensland Motel. Upon proceeding to Room 24, PO1 Veloso handed the marked money to accused.¹⁷

As accused counted the money, PO1 Veloso gave PSI Ylanan a missed call. This was their pre-arranged signal. The rest of the team proceeded to Room 24, arrested accused, and informed her of her constitutional rights. The police confiscated the marked money from accused.¹⁸ Meanwhile, AAA and BBB “were brought to Room 25 and placed in the custody of the representatives from the IJM and the DSWD.”¹⁹

During trial, AAA testified that she was born on January 27, 1991. This statement was supported by a copy of her certificate of live birth.²⁰

AAA narrated that in 2007, she worked as a house helper in Mandaue City. In March 2008 she stopped working as a house helper and transferred to Cebu City. She stayed with her cousin, but she subsequently moved to a boarding house. It was there where she met her friend, Gee Ann. AAA knew that Gee Ann worked in a disco club. When Gee Ann found out that AAA was no longer a virgin, she offered AAA work. AAA agreed because she needed the money in order to help her father. AAA recalled that she had sex with her first customer. She was paid ₱200.00 and given an additional ₱500.00 as tip. For the first few weeks, Gee Ann provided customers for AAA. Eventually, Gee Ann brought her to Barangay Kamagayan, telling her that there were more customers in that area.²¹

AAA stated that she knew accused was a pimp because AAA would usually see her pimping girls to customers in Barangay Kamagayan.²² AAA further testified that on May 2, 2008, accused solicited her services for a customer. That was the first time that she was pimped by accused.²³ Accused brought her, BBB, and a certain Jocelyn to Queensland Motel.²⁴

AAA testified that Jocelyn stayed in the taxi, while she and BBB went to Room 24. It was in Room 24 where the customer paid Shirley. The police rushed in and told AAA and BBB to go to the other room. AAA was then met by the Department of Social Welfare and Development personnel who informed her that she was rescued and not arrested.²⁵

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ *CA rollo*, p. 9.

²¹ Id. at 10.

²² Id.

²³ *Rollo*, p. 6.

²⁴ *CA rollo*, pp. 10–11.

²⁵ Id. at 11.

AAA described that her job as a prostitute required her to display herself, along with other girls, between 7 p.m. to 8 p.m. She received ₱400.00 for every customer who selected her.²⁶

The prosecution also presented the police operatives during trial. PSI Ylanan, SPO1 Mendaros, and SPO1 Altubar testified that after PO1 Veloso had made the missed call to PSI Ylanan, they “rushed to Room 24 and arrested the accused.”²⁷ SPO1 Altubar retrieved the marked money worth ₱1,000.00 from accused’s right hand “and upon instruction from PCINSP Ylanan recorded the same at the ‘police blotter prior operation’. . . .”²⁸

The trial court noted that AAA requested assistance from the IJM “in conducting the operation against the accused.”²⁹

Version of the accused

In defense, accused testified that she worked as a laundrywoman. On the evening of May 2, 2008, she went out to buy supper. While walking, she was stopped by two men on board a blue car. The two men asked her if she knew someone named Bingbing. She replied that she only knew Gingging but not Bingbing. The men informed her that they were actually looking for Gingging, gave her a piece of paper with a number written on it, and told her to tell Gingging to bring companions. When accused arrived home, she contacted Gingging. Gingging convinced her to come because allegedly, she would be given money by the two males.³⁰

Ruling of the trial court

The Regional Trial Court, Branch 14 in Cebu City found accused guilty beyond reasonable doubt and held³¹ that:

Accused had consummated the act of trafficking of person[s] . . . as defined under paragraph (a), Section 3 of R.A. 9208 for the purpose of letting her engage in prostitution as defined under paragraph [c] of the same Section; the act of “sexual intercourse” need not have been consummated for the mere “transaction” i.e. the ‘solicitation’ for sex and the handing over of the “bust money” of Php1,000.00 already consummated the said act.

. . . .

²⁶ Id. at 10.

²⁷ Id. at 12.

²⁸ Id.

²⁹ Id.

³⁰ *Rollo*, p. 6.

³¹ *CA rollo*, pp. 9–13.

WHEREFORE, the Court finds accused, SHIRLEY A. CASIO, GUILTY beyond reasonable doubt of trafficking in persons under paragraph (a), Section 4 as qualified under paragraph (a), Section 6 of R.A. 9208 and sentenced to suffer imprisonment of TWENTY (20) YEARS and to pay a fine of ONE MILLION (Php1,000,000.00).

Finally, accused is ordered to pay the costs of these proceedings.

SO ORDERED[.]³²

Ruling of the Court of Appeals

The Court of Appeals affirmed the findings of the trial court but modified the fine and awarded moral damages. The dispositive portion of the decision³³ reads:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby DENIED. The assailed Decision dated 10 August 2010 promulgated by the Regional Trial Court, Branch 14 in Cebu City in Crim. Case No. CBU-83122 is AFFIRMED WITH MODIFICATIONS. The accused-appellant is accordingly sentenced to suffer the penalty of life imprisonment and a fine of Php2,000,000 and is ordered to pay each of the private complainants Php150,000 as moral damages.

SO ORDERED.³⁴

Accused filed a notice of appeal³⁵ on August 28, 2013, which the Court of Appeals noted and gave due course in its resolution³⁶ dated January 6, 2014.

The case records of CA-G.R. CEB-CR No. 01490 were received by this court on March 17, 2014.³⁷

In the resolution³⁸ dated April 29, 2014, this court resolved to notify the parties that they may file their respective supplemental briefs within 30 days from notice. This court also required the Superintendent of the Correctional Institution for Women to confirm the confinement of accused.³⁹

³² Id. at 13.

³³ *Rollo*, pp. 3–13. The decision was penned by Associate Justice Edgardo L. Delos Santos and concurred in by Associate Justices Pamela Ann Abella Maxino and Maria Elisa Sempio Diy of the Nineteenth Division.

³⁴ Id. at 13.

³⁵ Id. at 14.

³⁶ Id. at 16–17.

³⁷ Id. at 1.

³⁸ Id. at 19–20.

³⁹ Id. at 19.

Counsel for accused⁴⁰ and the Office of the Solicitor General⁴¹ filed their respective manifestations, stating that they would no longer file supplemental briefs considering that all issues had been discussed in the appellant's brief and appellee's brief filed before the Court of Appeals. Through a letter⁴² dated June 17, 2014, Superintendent IV Rachel D. Ruelo confirmed accused's confinement at the Correctional Institution for Women since October 27, 2010.

The sole issue raised by accused is whether the prosecution was able to prove her guilt beyond reasonable doubt.

However, based on the arguments raised in accused's brief, the sole issue may be dissected into the following:

- (1) Whether the entrapment operation conducted by the police was valid, considering that there was no prior surveillance and the police did not know the subject of the operation;⁴³
- (2) Whether the prosecution was able to prove accused's guilt beyond reasonable doubt even though there was no evidence presented to show that accused has a history of engaging in human trafficking;⁴⁴ and
- (3) Whether accused was properly convicted of trafficking in persons, considering that AAA admitted that she works as a prostitute.⁴⁵

Arguments of accused

Accused argues that there was no valid entrapment. Instead, she was instigated into committing the crime.⁴⁶ The police did not conduct prior surveillance and did not even know who their subject was.⁴⁷ Neither did the police know the identities of the alleged victims.

Accused further argues that under the subjective test, she should be acquitted because the prosecution did not present evidence that would prove she had a history of engaging in human trafficking or any other offense. She denied being a pimp and asserted that she was a laundrywoman.⁴⁸ In

⁴⁰ Id. at 30–32. The manifestation was dated July 14, 2014.

⁴¹ Id. at 22–24. The manifestation was dated July 14, 2014.

⁴² Id. at 21.

⁴³ *CA rollo*, p. 33.

⁴⁴ Id. at 37.

⁴⁵ Id.

⁴⁶ Id. at 32.

⁴⁷ Id. at 33.

⁴⁸ Id. at 36–37.

addition, AAA admitted that she worked as a prostitute. Thus, it was her decision to display herself to solicit customers.⁴⁹

Arguments of the plaintiff-appellee

The Office of the Solicitor General, counsel for plaintiff-appellee People of the Philippines, argued that the trial court did not err in convicting accused because witnesses positively identified her as the person who solicited customers and received money for AAA and BBB.⁵⁰ Entrapment operations are valid and have been recognized by courts.⁵¹ Likewise, her arrest in flagrante delicto is valid.⁵² Hence, the trial court was correct in stating that accused had “fully consummated the act of trafficking of persons. . .”⁵³

We affirm accused Shirley A. Casio’s conviction.

I.

Background of Republic Act No. 9208

The United Nations Convention against Transnational Organized Crime (UN CTOC) was “adopted and opened for signature, ratification and accession”⁵⁴ on November 15, 2000. The UN CTOC is supplemented by three protocols: (1) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; (2) the Protocol against the Smuggling of Migrants by Land, Sea and Air; and, (3) the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.⁵⁵

On December 14, 2000, the Philippines signed the United Nations “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” (Trafficking Protocol).⁵⁶ This was ratified by the

⁴⁹ Id. at 37.

⁵⁰ Id. at 72–73.

⁵¹ Id. at 74–75.

⁵² Id. at 75–76.

⁵³ Id. at 72.

⁵⁴ United Nations Human Rights, Protocol to Prevent, “Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>> (visited November 26, 2014).

⁵⁵ United Nations Office on Drugs and Crime, “United Nations Convention against Transnational Organized Crime and the Protocols Thereto” <<http://www.unodc.org/unodc/treaties/CTOC/>> (visited November 26, 2014).

⁵⁶ United Nations Treaty Collection <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-&chapter=18&lang=en> (visited: November 26, 2014).

Philippine Senate on September 30, 2001.⁵⁷ The Trafficking Protocol's entry into force was on December 25, 2003.⁵⁸

In the Trafficking Protocol, human trafficking is defined as:

Article 3

Use of terms

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

Senator Loren Legarda, in her sponsorship speech, stated that the "Anti-Trafficking Act will serve as the enabling law of the country's commitment to [the] protocol."⁵⁹

Senator Luisa Ejercito Estrada also delivered a sponsorship speech and described trafficking in persons as follows:

⁵⁷ Sponsorship speech of Senator Loren Legarda, delivered on December 10, 2002. Record of the Senate, Volume II, No. 42, Twelfth Congress, Second Regular Session, October 15–December 18, 2002, p. 617; Record of the Senate, Volume III, No. 62, February 12, 2003, p. 383.

⁵⁸ United Nations Office on Drugs and Crime, "Signatories to the United Nations Convention against Transnational Crime and its Protocols" <<http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>> (visited November 27, 2014).

⁵⁹ Sponsorship speech of Senator Loren Legarda, delivered on December 10, 2002. Record of the Senate, Volume II, No. 42, Twelfth Congress, Second Regular Session, October 15–December 18, 2002, p. 617.

Trafficking in human beings, if only to emphasize the gravity of its hideousness, is tantamount to modern-day slavery at work. It is a manifestation of one of the most flagrant forms of violence against human beings. Its victims suffer the brunt of this insidious form of violence. It is exploitation, coercion, deception, abduction, rape, physical, mental and other forms of abuse, prostitution, forced labor, and indentured servitude.

....

As of this time, we have signed the following: the Convention on the Elimination of all Forms of Discrimination Against Women; the 1995 Convention on the Rights of the Child; the United Nations Convention on the Protection of Migrant Workers and their Families; and the United Nations' Resolution on Trafficking in Women and Girls, among others.

Moreover, we have also expressed our support for the United Nations' Convention Against Organized Crime, including the Trafficking Protocol in October last year.

At first glance, it appears that we are very responsive to the problem. So it seems.

Despite these international agreements, we have yet to come up with a law that shall squarely address human trafficking.⁶⁰

During the interpellation of Republic Act No. 9208, then numbered as Senate Bill No. 2444, Senator Teresa Aquino-Oreta asked if there was a necessity for an anti-trafficking law when other laws exist that cover trafficking.⁶¹

Senator Luisa Ejercito Estrada explained:

At present, Mr. President, the relevant laws to the trafficking issue are the Revised Penal Code, Republic Act No. 8042 or the Migrant Workers and Overseas Filipino Act, R[epublic] A[ct] No. 6955 or the Mail-Order Bride Act, and Republic Act No. 8239 or the Philippine Passport Act. These laws address issues such as illegal recruitment, prostitution, falsification of public documents and the mail-order bride scheme. *These laws do not respond to the issue of recruiting, harboring or transporting persons resulting in prostitution, forced labor, slavery and slavery-like practices. They only address to one or some elements of trafficking independent of their results or consequence.*⁶² (Emphasis supplied)

⁶⁰ Record of the Senate, Volume II, No. 42, Twelfth Congress Second Regular Session, October 15–December 18, 2002, p. 614–616.

⁶¹ Record of the Senate, Volume III, No. 60, Twelfth Congress, Second Regular Session, January 13–June 5, 2003, p. 364.

⁶² Record of the Senate, Volume III, No. 60, Twelfth Congress, Second Regular Session, January 13–June 5, 2003, p. 364.

Thus, Republic Act No. 9208 was enacted in order to fully address the issue of human trafficking. Republic Act No. 9208 was passed on May 12, 2003, and approved on May 26, 2003.

II.

Elements of trafficking in persons

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

- (1) The *act* of “recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders.”
- (2) The *means* used which include “threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another; and
- (3) The *purpose* of trafficking is exploitation which includes “exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.”⁶³

On January 28, 2013, Republic Act No. 10364⁶⁴ was approved, otherwise known as the “Expanded Anti-Trafficking in Persons Act of 2012.” Section 3(a) of Republic Act No. 9208 was amended by Republic Act No. 10364 as follows:

SEC. 3. Section 3 of Republic Act No. 9208 is hereby amended to read as follows:

“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

⁶³ Rep. Act No. 9208 (2003), sec. 3(a). Note that this definition is the original definition, considering that the crime was committed prior to the enactment of Rep. Act No. 10364. In the resolution of this case, we use the provisions in Rep. Act No. 9208 prior to its amendment.

⁶⁴ An Act Expanding Rep. 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.”

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)

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

- (1) The act of “recruitment, *obtaining, hiring, providing, offering*, transportation, transfer, *maintaining*, harboring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders;”
- (2) The means used include “by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”
- (3) The purpose of trafficking includes “the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs” (Emphasis supplied)

The Court of Appeals found that AAA and BBB were recruited by accused when their services were peddled to the police who acted as decoys.⁶⁵ AAA was a child at the time that accused peddled her services.⁶⁶ AAA also stated that she agreed to work as a prostitute because she needed money.⁶⁷ Accused took advantage of AAA’s vulnerability as a child and as one who need money, as proven by the testimonies of the witnesses.⁶⁸

III.

**Knowledge or consent
of the minor is not a
defense under Republic
Act No. 9208.**

⁶⁵ *Rollo*, p. 6.

⁶⁶ *Id.* at 5.

⁶⁷ *Id.*

⁶⁸ *Id.* at 5–6.

Accused claims that AAA admitted engaging in prostitution even before May 2, 2008. She concludes that AAA was predisposed to having sex with “customers” for money.⁶⁹ For liability under our law, this argument is irrelevant. As defined under Section 3(a) of Republic Act No. 9208, trafficking in persons can still be committed even if the victim gives consent.

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

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

The recruitment transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as “trafficking in persons” even if it does not involve any of the means set forth in the preceding paragraph.⁷⁰ (Emphasis supplied)

The victim’s consent is rendered meaningless due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking.⁷¹ 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.

Section 4 of Republic Act No. 9208 enumerates the different acts of trafficking in persons. Accused was charged under Section 4(a), which states:

SEC. 4. *Acts of Trafficking in Persons.* — It shall be unlawful for any person, natural or judicial, 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

⁶⁹ *CA rollo*, p. 37.

⁷⁰ Considering that Shirley A. Casio committed the offense in 2008, we apply the original definition of “trafficking in persons.”

⁷¹ United Nations Office on Drugs and Crime, “Human Trafficking FAQs” <<https://www.unodc.org/unodc/en/human-trafficking/faqs.html>> (visited November 26, 2014).

the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;⁷²

Republic Act No. 9208 further enumerates the instances when the crime of trafficking in persons is qualified.

SEC. 6. *Qualified Trafficking in Persons.* — The following are considered as qualified trafficking:

- a. *When the trafficked person is a child;*
- b. When the adoption is effected through Republic Act No. 8043, otherwise known as the “Inter-Country Adoption Act of 1995” and said adoption is for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
- c. When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group;
- d. When the offender is an ascendant, parent, sibling, guardian or a person who exercise authority over the trafficked person or when the offense is committed by a public officer or employee;
- e. When the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;
- f. When the offender is a member of the military or law enforcement agencies; and
- g. When by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immune Deficiency Syndrome (AIDS). (Emphasis supplied)⁷³

Section 3 (b) of Republic Act No. 9208 defines “child” as:

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

. . . .

- b. *Child* - refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.⁷⁴

⁷² Rep. Act No. 9208, sec. 4 prior to its amendment by Rep. Act No. 10364.

⁷³ Rep. Act No. 9208, sec. 6 prior to its amendment by Rep. Act No. 10364.

⁷⁴ This definition was maintained in Rep. Act No. 10364.

Based on the definition of trafficking in persons and the enumeration of acts of trafficking in persons, accused performed all the elements in the commission of the offense when she peddled AAA and BBB and offered their services to decoys PO1 Veloso and PO1 Luardo in exchange for money. The offense was also qualified because the trafficked persons were minors.

Here, AAA testified as to how accused solicited her services for the customers waiting at Queensland Motel. AAA also testified that she was only 17 years old when accused peddled her. Her certificate of live birth was presented as evidence to show that she was born on January 27, 1991.

The prosecution was able to prove beyond reasonable doubt that accused committed the offense of trafficking in persons, qualified by the fact that one of the victims was a child. As held by the trial court:

[T]he act of “sexual intercourse” need not have been consummated for the mere “transaction” i.e. that ‘solicitation’ for sex and the handing over of the “bust money” of Php.1,000.00 already consummated the said act.⁷⁵

IV.

Validity of the entrapment operation

In *People v. Doria*,⁷⁶ this court discussed the objective test and the subjective test to determine whether there was a valid entrapment operation:

. . . American federal courts and a majority of state courts use the “subjective” or “origin of intent” test laid down in *Sorrells v. United States* to determine whether entrapment actually occurred. *The focus of the inquiry is on the accused's predisposition to commit the offense charged, his state of mind and inclination before his initial exposure to government agents.* All relevant facts such as the accused's mental and character traits, his past offenses, activities, his eagerness in committing the crime, his reputation, etc., are considered to assess his state of mind before the crime. The predisposition test emphasizes the accused's propensity to commit the offense rather than the officer's misconduct and reflects an attempt to draw a line between a “trap for the unwary innocent and the trap for the unwary criminal.” If the accused was found to have been ready and willing to commit the offense at any favorable opportunity, the entrapment defense will fail even if a police agent used an unduly persuasive inducement.

⁷⁵ CA rollo, p. 13.

⁷⁶ 361 Phil. 595 (1999) [Per J. Puno, En Banc].

Some states, however, have adopted the “objective” test. . . . Here, the court considers the nature of the police activity involved and the propriety of police conduct. *The inquiry is focused on the inducements used by government agents, on police conduct, not on the accused and his predisposition to commit the crime.* For the goal of the defense is to deter unlawful police conduct. The test of entrapment is whether the conduct of the law enforcement agent was likely to induce a normally law-abiding person, other than one who is ready and willing, to commit the offense; for purposes of this test, it is presumed that a law-abiding person would normally resist the temptation to commit a crime that is presented by the simple opportunity to act unlawfully. (Emphasis supplied, citations omitted)⁷⁷

Accused argued that in our jurisprudence, courts usually apply the objective test in determining the whether there was an entrapment operation or an instigation.⁷⁸ However, the use of the objective test should not preclude courts from also applying the subjective test. She pointed out that:

Applying the “*subjective*” test it is worth invoking that accused-appellant procures income from being a laundry woman. The prosecution had not shown any proof evidencing accused-appellant’s history in human trafficking or engagement in any offense. She is not even familiar to the team who had has [sic] been apprehending human traffickers for quite some time.⁷⁹ (Citations omitted)

Accused further argued that the police should have conducted a prior surveillance before the entrapment operation.

Time and again, this court has discussed the difference between entrapment and instigation. In *Chang v. People*,⁸⁰ this court explained that:

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.⁸¹

⁷⁷ Id. at 611–612.

⁷⁸ CA *rollo*, pp. 35–36.

⁷⁹ Id. at 36–37.

⁸⁰ 528 Phil. 740 (2006) [Per J. Carpio Morales, Third Division].

⁸¹ Id. at 751, *citing Araneta v. Court of Appeals*, 226 Phil. 437, 444 (1986) [Per J. Gutierrez, Jr., Second Division]; *See also People v. Quiaoit, Jr.*, 555 Phil. 441, 449 (2007) [Per J. Chico-Nazario, Third Division]; *People v. Cortez*, 611 Phil. 360 (2009) [Per J. Velasco, Jr., Third Division]; *People v. Tapere*, G.R. No. 178065, February 20, 2013, 691 SCRA 347, 358–359 [Per J. Bersamin, First Division].

Accused contends that using the subjective test, she was clearly instigated by the police to commit the offense. She denied being a pimp and claimed that she earned her living as a laundrywoman. On this argument, we agree with the finding of the Court of Appeals:

[I]t was the accused-appellant who commenced the transaction with PO1 Luardo and PO1 Veloso by calling their attention on whether they wanted girls for that evening, and when the officers responded, it was the accused-appellant who told them to wait while she would fetch the girls for their perusal.⁸²

This shows that accused was predisposed to commit the offense because she initiated the transaction. As testified by PO1 Veloso and PO1 Luardo, accused called out their attention by saying “*Chicks mo dong?*” If accused had no predisposition to commit the offense, then she most likely would not have asked PO1 Veloso and PO1 Luardo if they wanted girls.

The entrapment would still be valid using the objective test. The police merely proceeded to D. Jakosalem Street in Barangay Kamagayan. It was accused who asked them whether they wanted girls. There was no illicit inducement on the part of the police for the accused to commit the crime.

When accused was arrested, she was informed of her constitutional rights.⁸³ The marked money retrieved from her was recorded in the police blotter prior to the entrapment operation and was presented in court as evidence.⁸⁴

On accused’s alibi that she was merely out to buy her supper that night, the Court of Appeals noted that accused never presented Ginging in court. Thus, her alibi was unsubstantiated and cannot be given credence.⁸⁵

With regard to the lack of prior surveillance, prior surveillance is not a condition for an entrapment operation’s validity.⁸⁶ In *People v. Padua*⁸⁷ 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

⁸² *Rollo*, pp. 9–10.

⁸³ *Id.* at 5.

⁸⁴ *CA rollo*, p. 12.

⁸⁵ *Rollo*, p. 11.

⁸⁶ *Id.* at 10.

⁸⁷ G.R. No. 174097, July 21, 2010, 625 SCRA 220 [Per J. Leonardo-De Castro, First Division].

essence and dispense with the need for prior surveillance.⁸⁸ (Citations omitted)

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.

V.

Imposition of fine and award of damages

The Court of Appeals properly imposed the amount of ₱2,000,000.00. Section 10 (b) of Republic Act No. 9208 provides that:

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

....

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

However, we modify by raising the award of moral damages from ₱150,000.00⁸⁹ to ₱500,000.00. We also award exemplary damages in the amount of ₱100,000.00. These amounts are in accordance with the ruling in *People v. Lalli*⁹⁰ where this court held that:

The payment of P500,000 as moral damages and P100,000 as exemplary damages for the crime of Trafficking in Persons as a Prostitute finds basis in Article 2219 of the Civil Code, which states:

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

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;

⁸⁸ Id. at 239.

⁸⁹ *Rollo*, p. 13.

⁹⁰ G.R. No. 195419, October 12, 2011, 659 SCRA 105 [Per J. Carpio, Second Division].

- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

. . . .

The criminal case of Trafficking in Persons as a Prostitute is an analogous case to the crimes of seduction, abduction, rape, or other lascivious acts. In fact, it is worse. To be trafficked as a prostitute without one's consent and to be sexually violated four to five times a day by different strangers is horrendous and atrocious. There is no doubt that Lolita experienced physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, and social humiliation when she was trafficked as a prostitute in Malaysia. Since the crime of Trafficking in Persons was aggravated, being committed by a syndicate, the award of exemplary damages is likewise justified.⁹¹

Human trafficking indicts the society that tolerates the kind of poverty and its accompanying desperation that compels our women to endure indignities. It reflects the weaknesses of that society even as it convicts those who deviantly thrive in such hopelessness. We should continue to strive for the best of our world, where our choices of human intimacies are real choices, and not the last resort taken just to survive. Human intimacies enhance our best and closest relationships. It serves as a foundation for two human beings to face life's joys and challenges while continually growing together with many shared experiences. The quality of our human relationships defines the world that we create also for others.

Regardless of the willingness of AAA and BBB, therefore, to be trafficked, we affirm the text and spirit of our laws. Minors should spend their adolescence moulding their character in environments free of the vilest motives and the worse of other human beings. The evidence and the law compel us to affirm the conviction of accused in this case.

But this is not all that we have done. By fulfilling our duties, we also express the hope that our people and our government unite against

⁹¹ Id. at 126.

everything inhuman. We contribute to a commitment to finally stamp out slavery and human trafficking.

There are more AAA's and BBBs out there. They, too, deserve to be rescued. They, too, need to be shown that in spite of what their lives have been, there is still much good in our world.


WHEREFORE, premises considered, we **AFFIRM** the decision of the Court of Appeals dated June 27, 2013, finding accused Shirley A. Casio guilty beyond reasonable doubt of violating Section 4(a), qualified by Section 6(a) of Republic Act No. 9208, and sentencing her to suffer the penalty of life imprisonment and a fine of ₱2,000,000.00, with the **MODIFICATION** that accused-appellant shall not be eligible for parole under Act No. 4103 (Indeterminate Sentence Law) in accordance with Section 3 of Republic Act No. 9346.⁹²

The award of damages is likewise **MODIFIED** as follows:

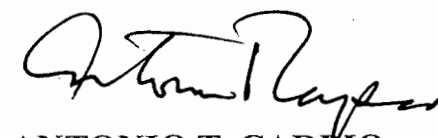
Accused is ordered to pay each of the private complainants:

- (1) ₱500,000.00 as moral damages; and
- (2) ₱100,000.00 as exemplary damages.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

⁹² An Act Prohibiting the Imposition of Death Penalty in the Philippines (2006)

Sec. 3 of Republic Act No. 9346 states:

"Sec.3. Persons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended."

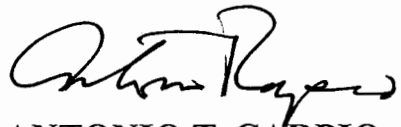

MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice