



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated March 1, 2023, which reads as follows:*

**G.R. No. 263372 – JANRY AVELINO y MADRIANO, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.\***

This is a Petition for Review on *Certiorari*<sup>1</sup> (the **Petition**) filed by petitioner Janry<sup>2</sup> Avelino y Madriano (**Avelino**) a.k.a. Vanessa, assailing the Decision,<sup>3</sup> dated January 27, 2022, of the Court of Appeals (CA) in CA-G.R. CR HC No. 02523-MIN. The CA affirmed the finding of guilt beyond reasonable doubt of Avelino for Violation of Section 4(a), in relation to Section 6, of Republic Act (R.A.) No. 9208,<sup>4</sup> as amended by R.A. No. 10364,<sup>5</sup> the Expanded Anti-Trafficking in Persons Act of 2012, by Branch 19, Regional Trial Court of Cagayan de Oro City (RTC) in the Decision,<sup>6</sup> dated December 12, 2019 in R-CDO-19-01151-CR.

*The Facts*

Avelino, along with three other individuals Shen Zhi Qiang<sup>7</sup> (**Qiang**) a.k.a. Johnson, Li Qi (**Qi**), and Joseph Uy y Bernal (**Uy**) a.k.a. Kerah, was charged for Violation of Section 4(a), in relation to Article 6, of R.A. No. 9208, as amended by R.A. No. 10364. The accusatory portion of the Information<sup>8</sup> reads:

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\* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 9208, the names of the private offended parties, along with other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

<sup>1</sup> *Rollo*, pp. 11-29.

<sup>2</sup> Spelled as “Janrey” in some parts of the *rollo*.

<sup>3</sup> *Rollo*, pp. 31-43. Penned by Associate Justices Oscar V. Badelles, and concurred in by Associate Justices Lily V. Biton, and Ana Marie T. Mas.

<sup>4</sup> Anti-Trafficking in Persons Act of 2003. Approved on May 26, 2003.

<sup>5</sup> Expanded Anti-Trafficking in Persons Act of 2012. Approved on February 6, 2013.

<sup>6</sup> *Rollo*, pp. 46-60.

<sup>7</sup> Spelled as “Quiang” in some parts of the *rollo*.

<sup>8</sup> *Rollo*, pp. 44-45.

That between 27 to 31 of March 2019, or sometime prior thereto, at the Marco (sic) Hotel, Brgy. Cugman, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with deliberate intent, by taking advantage of the vulnerability of the following MINOR victims, namely: AAA, 14 years old (born on 25 Feb. 2005), CCC, 14 years old (born on 21 Jul. 2004), DDD, 15 years old (born on 05 Jun. 2003), EEE 15 years old (born on 04 Aug. 2003), FFF, 15 years old (born on 21 Oct. 2003), GGG, 16 years old (born on 20 Feb. 2003), and HHH, 17 years old, did then and there, willfully, unlawfully and criminally commit qualified human trafficking by recruiting, obtaining and/or offering the said MINORS for the purpose of prosecution or sexual exploitation, or by acting as the procurer of them for different customers, for money, profit or any other consideration, to the damage and prejudice of the said minor victims.

CONTRARY TO LAW.<sup>9</sup>

When arraigned, Avelino, Qiang, Qi, and Uy pleaded not guilty.<sup>10</sup> Thereafter, trial on the merits ensued.

#### *The Version of the Prosecution*

The prosecution presented AAA, CCC, DDD, EEE, FFF,<sup>11</sup> and GGG (collectively, the **minor victims**), the minors who were rescued during the raid, as witnesses during the trial.

The minor victims' combined testimonies established that on various dates from March 27 to 31, 2019, they were pimped by Uy or Avelino, for "ever," "mers," or be "on duty," all slang words for having sex with someone in exchange for money.<sup>12</sup> Uy recruited these girls in order to fulfill requests by Qiang to find girls for a certain "Old Man."<sup>13</sup> The "Old Man," in turn, caters to the requests of unnamed Chinese nationals to provide them with prostitutes with whom they can have sex in exchange for money.<sup>14</sup>

BBB<sup>15</sup> testified that it was Avelino who sometimes pimped her and, on other days, it was Uy.<sup>16</sup>

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 47.

<sup>11</sup> A code name for one of the minor victims.

<sup>12</sup> *Rollo*, pp. 48-54.

<sup>13</sup> *Id.* at 35.

<sup>14</sup> *Id.* at 50.

<sup>15</sup> The real name of the minor victim cannot be found in the *rollo*.

<sup>16</sup> *Rollo*, p. 52.

DDD likewise testified that on March 29, 2019, when she was contacted by Uy who was then looking for girls for some Chinese nationals staying at the Marco Polo Hotel, it was Uy who booked a taxi for her, with Avelino already inside.<sup>17</sup> Avelino took DDD, EEE, and a certain Marian Balaba to the Marco Polo Hotel.

EEE testified that she only agreed to be pimped out to the Chinese nationals because Avelino asked her. On March 29, 2019, Avelino, who was on board a taxi, passed by EEE and called out to her, "*Girl, ride in. Girl, go fast because Kerah [Uy] needs girls at Marco Polo.*"

In all instances, the minor victims testified that they had sex with the Chinese nationals to whom they were introduced by Uy in exchange for money.

#### *The Version of the Defense*

Qiang denied involvement in the prostitution ring being operated by the Old Man and claimed that he was merely hired by the latter as an interpreter because he knows how to speak English.

Avelino and Uy denied having pimped the girls to the Chinese nationals.

For his part, Avelino claimed that the reason why he was at the Marco Polo Hotel was because his friend KC Mae Hermosura asked him to accompany her to meet some Chinese guest. At the hotel, they just swam in the pool. While not denying that he personally knows the girls, he insisted that their pimp is a certain Ate Wiks, not him.

On the other hand, Uy testified that he knows DDD, EEE, and FFF. However, just like Avelino, he denied that he pimped these girls to the Chinese nationals at the Marco Polo Hotel, and that their pimp is Ate Wiks.

#### *The Ruling of the RTC*

In the Decision,<sup>18</sup> dated December 12, 2019, the RTC found Qiang, Uy, and Avelino guilty as charged:

**ALL THE FOREGOING CONSIDERED**, the Court finds accused SHEN ZHI QIANG a.k.a. Johnson, JOSEPH BERNAL UY

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<sup>17</sup> *Id.* at 53.

<sup>18</sup> *Id.* at 46-60.

a.k.a. “KERAH” and JANRY AVELINO a.k.a. Vanessa, **GUILTY** beyond reasonable doubt of violation of Sec. 4 (a) in relation to Article (sic) 6 of Republic Act No. 9208, as amended by Republic Act No. 10364, also known as “**THE EXPANDED ANTI-TRAFFICKING IN PERSONS ACT OF 2012,**” and for which the Court hereby imposes upon them the penalty of life imprisonment and fine of P2,000,000.00 each.

In line with prevailing jurisprudence, each victim is entitled to P500,000.00 as moral damages, and P100,000.00 as exemplary damages. With costs.

The charge as against Li Qi is ordered **DISMISSED** in consonance with the findings on the Demurrer to Evidence.

IT IS SO ORDERED.<sup>19</sup> (Emphasis in the original.)

Qiang, Uy, and Avelino filed an appeal from the Decision of the RTC with the CA.

### *The Ruling of the CA*

In the Decision,<sup>20</sup> dated July 27, 2022, the CA affirmed the conviction of Qiang, Uy, and Avelino:

BASED ON THE FOREGOING, the instant Appeal is hereby **DENIED**. The Decision of the Regional Trial Court, Branch 19 of Cagayan de Oro City, dated December 12, 2019 is hereby **AFFIRMED** in toto.

The Appellant’s Brief separately filed before this Court by accused-appellant Janry Avelino’s counsel on July 8, 2022 is **NOTED**.

SO ORDERED.<sup>21</sup>

The CA affirmed the validity of the arrest of Qiang, Uy, and Avelino on the basis of Section 5 (a), Rule 113 of the Revised Rules of Criminal Procedure. The CA found that at the time of the raid conducted by the National Bureau of Investigation (**NBI**), in coordination with the City Social Welfare and Development (**CSWD**) office, the accused and the minor victims were inside Room 326 of the Marco Polo Hotel. The CA stressed that not all acts of trafficking happens in one instant and that the recruitment, coercion,

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<sup>19</sup> *Id.* at 89-90.

<sup>20</sup> *Id.* at 31-43. Penned by Associate Justices Oscar V. Badelles, and concurred in by Associate Justices Lily V. Biton, and Ana Marie T. Mas.

<sup>21</sup> *Id.* at 43.

and exploitation of the victims in trafficking cases usually happens over a period of time. The CA gave credence to the testimonies of the minor victims, stating that notwithstanding the fact that they admitted to being prostitutes, they can still be considered competent witnesses, absent a contrary showing.

Avelino filed the present Petition.

### *The Issue*

Did the CA commit reversible error in affirming the conviction of Avelino?

### *The Ruling of the Court*

This Court resolves to deny the Petition. The CA did not commit a reversible error in affirming Avelino's conviction for Violation of Section 4(a), in relation to Section 6(a), of the Expanded Anti-Trafficking in Persons Act of 2012.

### *The warrantless arrest of Avelino is valid*

In the Petition, Avelino argues that his warrantless arrest is illegal because at the time thereof, he was not committing any crime. Thus, he posits, that the two elements of an arrest *in flagrante delicto*, that (a) the person arrested must execute an overt act indicating that he or she has just committed, is actually committing, or is attempting to commit a crime; and (b) the overt act was done in the presence or within the view of the arresting officer, are missing.

The Court does not agree.

As correctly pointed out by the CA, the crime of trafficking in persons does not happen in one instant. Thus, even if at the time of the arrest by the operatives of the NBI Avelino was not doing anything, the crime of trafficking in persons, minors at that, had already been consummated.

Under Section 3(a) of R.A. No. 9208, the crime of "trafficking in persons" is defined as "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.”

Thus, from the time that Avelino recruited BBB and Galasan, and for the instances that he facilitated the transportation of Eduria and Galasan to the Marco Polo Hotel for purposes of prostituting them to some Chinese nationals, he has already repeatedly committed the acts constitutive of the crime of trafficking in persons. In the particular instance when they were arrested at Room 326 of the Marco Polo Hotel, Avelino had brought the minors there and they were waiting for customers to give the minors to for the purpose of prostitution. Thus, Avelino was in the act of committing trafficking where they were arrested.

On the issue on the non-presentation of the arresting officers of the NBI during trial as witnesses for the prosecution, the Court rejects Avelino’s argument that they should have been presented in order to prove that he and his co-accused were caught *in flagrante delicto*.

Citing *People v. Rodriguez (Rodriguez)*,<sup>22</sup> Avelino argues that “just like any operation that involves capturing the perpetrator *in flagrante delicto*, the testimonies of the apprehending officers on what transpired are crucial for conviction.”<sup>23</sup>

The reliance of Avelino on *Rodriguez* is misplaced. *Rodriguez* is not on all fours with the facts of the present case. In *Rodriguez*, the testimony of the Police Officer I Raymond Escobar (**PO1 Escobar**) was crucial because he was designated to pose as a customer during the entrapment operations. Eventually, he was flagged down by Rodriguez, who offered the sexual services of three pickup girls. The evidence for the prosecution anchored *solely* on the testimony of PO1 Escobar, the joint sworn affidavit of the arresting officers, and the pre-marked money.

Here, no such entrapment operation took place. The arrest of Avelino and Sy was prompted by the information received by the NBI from a concerned citizen. The subsequent raid resulted in the arrest of Avelino and Sy *in flagrante delicto*. Most importantly, even without the testimony of the NBI operatives, or even the representatives from the CSWD, the credible testimonies of the six minor victims are more than sufficient to support Avelino’s conviction.

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<sup>22</sup> 818 Phil. 625 (2017).

<sup>23</sup> *Rollo*, p. 24.

*Guilt of Avelino proven beyond reasonable doubt*

Section 4(a) of R.A. No. 9208 provides that it shall be unlawful for any person, natural or juridical, 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.

To successfully prosecute a case for trafficking in persons, the prosecution must establish the following elements of the crime:

(a) 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”; (b) 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 (c) 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.”<sup>24</sup> (Underscoring supplied.)

Under Section 6(a), the crime of trafficking in persons is qualified when the trafficked person is a child.

The prosecution was able to establish the presence of all three elements. As uniformly and categorically testified by BBB, DDD, and EEE, Avelino actively participated in the prostitution scheme of Uy, either as a pimp, or as someone who facilitated their transportation from the meet-up point to the Marco Polo Hotel, where they engaged in sexual intercourse with the Chinese nationals referred by Uy. That the victims' vulnerability was taken advantage of by Uy and Avelino is patent, considering their minority. The Court has previously held 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.”<sup>25</sup>

The Court finds no compelling reason therefore to deviate from the foregoing findings of the RTC, as further affirmed by the CA. Factual findings of the RTC, when affirmed by the CA, are accorded great weight and respect, given that it was in the position to assess the credibility of the

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<sup>24</sup> *People v. Mora*, G.R. No. 242682, July 1, 2019, citing *People v. Hirang*, 803 Phil. 277, 289 (2017), further citing *People v. Casio*, 749 Phil. 458, 472-473 (2014).

<sup>25</sup> *People v. Casio*, 749 Phil. 458, 475-476 (2014).

witnesses.<sup>26</sup> As such, the RTC's determination of the probative weight of the witnesses' testimonies as well as the documentary evidence submitted deserves credence.<sup>27</sup>

*The awards of moral and exemplary damages should be modified*

In declaring Avelino liable for moral and exemplary damages in the amounts of PHP 500,000.00 and PHP 100,000.00, respectively, both the RTC and the CA omitted to impose legal interest at the rate of 6% per annum. The assailed Decision must thus be modified to reflect the same in accordance with prevailing jurisprudence.<sup>28</sup>

**WHEREFORE**, the Petition for Review on *Certiorari* filed by petitioner Janry Avelino y Madriano is **DENIED**. The Decision, dated January 27, 2022, of the Court of Appeals in CA-G.R. CR HC No. 02523-MIN is **AFFIRMED** with the **MODIFICATION** that (1) the petitioner is convicted of the crime of Qualified Trafficking in Persons under Section 4(a), in relation to Section 6(a), of Republic Act No. 9208, as amended by Republic Act No. 10364; and (2) the civil liabilities so awarded shall earn interest at the rate of six percent (6%) *per annum* reckoned from the finality of this Resolution, until full payment.

**SO ORDERED.**

By authority of the Court:

*MisDCCBatt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

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<sup>26</sup> *People v. Sayo and Roxas*, 851 Phil. 986, 1000 (2019), citing *People v. Aguirre*, 820 Phil. 1085, 1097 (2017).

<sup>27</sup> *Id.*

<sup>28</sup> *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.* (Resolution), G.R. No. 225433, September 20, 2022.



COURT OF APPEALS  
CA-G.R. CR HC No. 02523-MIN  
9000 Cagayan de Oro City

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 19, Cagayan de Oro City  
(Crim. Case No. R-CDO-19-01151-CR)

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