



Misael Domingo C. Battung III
Division Clerk of Court
Third Division

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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
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PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 227880

Present:

-versus-

LEONEN, J., Chairperson,
GESMUNDO,*
CARANDANG,
LAZARO-JAVIER,** and
ZALAMEDA, JJ.

RUTH DELA ROSA y LIKINON
a.k.a. "SALLY,"
Accused-Appellant.

Promulgated:
November 6, 2019

Misael Domingo C. Battung III

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DECISION

LEONEN, J.:

Sworn statements often conflict with testimonies given in open court because the former are seldom complete or comprehensive accounts of what actually happened.¹ Thus, "[a]ffidavits taken *ex parte* are generally considered inferior to the testimony given in open court."²

This is an appeal assailing the Decision³ of the Court of Appeals, which affirmed the Regional Trial Court Judgment⁴ convicting Ruth Dela

* On leave.

** On official leave.

¹ *People v. SPO1 Gonzalez, Jr.*, 781 Phil. 149, 159 (2016) [Per J. Perez, Third Division].

² *People v. Dabon*, 290-A Phil. 449, 456 (1992) [Per J. Regalado, Second Division].

³ *Rollo*, pp. 2-17. The Decision promulgated on March 29, 2016 was penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Ricardo R. Rosario and Marie Christine Azcarraga-Jacob of the Sixteenth Division, Court of Appeals, Manila.

⁴ *CA rollo*, pp. 39-64. The Decision promulgated on October 1, 2013 was penned by Presiding Judge

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Rosa y Likinon a.k.a. "Sally" (Dela Rosa) of qualified trafficking in persons under Republic Act No. 9208.

On March 8, 2013, two (2) separate Informations were filed charging Dela Rosa with qualified human trafficking.⁵ They read as follows:

Crim. Case no. 13-9820

"That during the period of February, 2013 to March 6, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously recruit, transfer, harbor and provide AAA, a minor of 16 years of age, to KIM CABEN for the purpose of prostitution and sexual exploitation, by taking advantage of the vulnerability of the said minor, AAA, thereby demeaning and degrading the child's intrinsic worth as a human being.

CONTRARY TO LAW." (*sic*)

Crim. Case no. 13-9821

"That during the period of February, 2013 to March 6, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously recruit, transfer, harbor and provide BBB, a minor of 15 years of age, to KIM CABEN for the purpose of prostitution and sexual exploitation, by taking advantage of the vulnerability of the said minor, AAA, (*sic*) thereby demeaning and degrading the child's intrinsic worth as a human being.

CONTRARY TO LAW."⁶ (Citations omitted)

Dela Rosa pleaded not guilty to the charges.⁷ Thus, trial ensued.

The prosecution presented AAA, BBB, and Police Officer 2 Elena De Leon (PO2 De Leon) as its witnesses.

AAA testified that sometime in February 2013, she was at home when she received a call from Dela Rosa, asking to meet at JJ's Supermarket for an errand. AAA complied. However, upon meeting at the supermarket, the two proceeded to the Coa Hotel on Friendship road in Angeles City.⁸

Ma. Angelica T. Paras-Quiambao of Branch 59, Regional Trial Court, Angeles City.

⁵ *Rollo*, p. 3.

⁶ *CA rollo*, p. 39.

⁷ *Rollo*, p. 4.

⁸ *CA rollo*, p. 42.

In one (1) of the hotel rooms, AAA waited with Dela Rosa and another woman whom she did not know. A few hours later, a Korean man, whom AAA came to know as Kim Caben (Kim), arrived and sent the unidentified woman home. Dela Rosa then introduced AAA to Kim as her niece, after which AAA was told to take a bath. Dela Rosa took her turn in the bathroom afterwards, leaving AAA alone with Kim.⁹

AAA saw Kim ingest a white “tawas-like substance” by injecting it into himself using a syringe, then by inhaling the smoke emitted by heating the substance. Once Dela Rosa was finished taking a bath, she joined Kim in smoking the heated substance.¹⁰

When they were done, Dela Rosa proceeded to perform fellatio on Kim, much to AAA’s horror. Kim then ordered AAA to sit closer to him. When she did, Kim mashed her breasts and ordered her to lie down on her side. Kim then touched her genitals and had sex with her. Unable to bear it any longer, AAA asked to be excused. She was allowed to stay in the bathroom, where she waited for around half an hour before Dela Rosa fetched her.¹¹

Upon exiting the hotel, Kim paid Dela Rosa ₱2,200.00, of which Dela Rosa gave AAA ₱700.00. Dela Rosa warned AAA not to tell anyone about what had happened and advised that the girl comply with Kim’s future requests so as not to embarrass her.¹²

On March 6, 2013, AAA received a text message from Kim, asking if she had “a lady friend” and if she could “give her lady friend to him[.]”¹³ With Dela Rosa’s threat in mind, AAA complied. She asked BBB, then 15 years old, to accompany her to Avante Hotel.¹⁴

At the hotel, the girls found Kim waiting inside an unnumbered room. Kim told them to take a shower while he ingested more of the white substance. They followed his order but refused to go out of the bathroom in fear, only doing so after Kim threatened them.¹⁵

Then, Kim had sex with each of the girls—AAA first, then BBB.¹⁶

⁹ Id. at 42.

¹⁰ Id. at 42–43.

¹¹ Id. at 43.

¹² Id.

¹³ Id.

¹⁴ Id. at 41 and 43.

¹⁵ Id. at 43–44.

¹⁶ Id.

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Once he had his way with them, Kim told AAA and BBB to wait with him for his contact who would be bringing drugs to the hotel room.¹⁷

Around 15 minutes later, police officers barged into the room and arrested Kim. They took him along with the girls to 174th Camp Tomas Pepito in Sto. Domingo, Angeles City.¹⁸

BBB testified to a similar series of events that transpired on March 6, 2013. In the evening that day, she agreed to meet with AAA at the Jailhouse Bar, where they rode a tricycle to Avante Hotel. Once there, they entered a hotel room where a Korean man was waiting for them. BBB was made to take a bath while AAA stayed with the Korean man. Through the bathroom door, BBB peeped and saw AAA having sex with the Korean man. When it was her turn, BBB tried to resist, but she eventually acquiesced to the sex after the Korean man had threatened to inject her with the white substance. Once he was done, the Korean man told the girls to wait in the room with him. Soon after, police officers barged into the room, arrested the Korean man, then took all of them to the police station.¹⁹

BBB told PO2 De Leon what happened during an interview the following day.²⁰ During cross-examination, BBB noted that “[i]t was AAA who asked her to meet with the Korean national.”²¹

PO2 De Leon testified that she was the officer who interviewed AAA and BBB at the police station after Kim’s arrest. Although she testified that she interviewed both AAA and BBB, she did not mention BBB’s interview in her affidavit.²² Meanwhile, she recounted that AAA told her that she met Kim through her aunt “Sally,” who gave AAA’s phone number to Kim.²³

Based on these interviews, the police conducted an operation to arrest Dela Rosa. The police had AAA accompany them to Ipil-Ipil Street in Hadrian, Balibago, where they initially went to AAA’s house to speak to AAA’s mother, CCC. When they were unable to find CCC there, AAA called CCC and learned that she was with Dela Rosa. AAA asked CCC to meet at their house because “somebody wanted to talk to her.”²⁴ As soon as Dela Rosa arrived with CCC, AAA identified Dela Rosa as the trafficker, prompting the police to arrest her. PO2 De Leon was present in this arrest and executed an affidavit of apprehension, which she identified and affirmed

¹⁷ Id. at 44.

¹⁸ Id.

¹⁹ Id. at 41–42.

²⁰ Id. at 42.

²¹ Id. at 46.

²² Id.

²³ Id. at 45–46.

²⁴ Id. at 45.

in open court.²⁵

The defense, on the other hand, presented Dela Rosa, her common-law spouse Crisanto Samper (Crisanto), and Crisanto's niece Maria Donna Samper (Donna).

Dela Rosa denied the prosecution's version of events. She testified that she and Crisanto took in and raised AAA for six (6) years. Crisanto is AAA's maternal uncle. Sometime in December 2012, she invited AAA to accompany her to the supermarket to buy milk for her child. There, Dela Rosa received a call from her friend, Kim, who wanted to meet with her that afternoon. Dela Rosa told Kim that she was with her niece, AAA. When Kim said that he wanted to meet AAA, Dela Rosa asked AAA if she wanted to come with her to meet Kim. AAA agreed.²⁶

Both of them met with Kim at the Avante Hotel. Dela Rosa then gave AAA money to go home while she stayed to help Kim pack his things for his flight back to Korea. When they were done, Kim gave her money for groceries. She went home immediately after.²⁷

Dela Rosa further testified that on March 6, 2013, she was at home with her child and Crisanto when she received a call from CCC, asking if AAA was with them. Dela Rosa denied having seen AAA that day. CCC informed Dela Rosa that AAA had gone off to meet a "Mr. Kim" but had not yet returned. When AAA had still not returned home by midnight, CCC called Dela Rosa again to ask for her help to find AAA.²⁸

CCC, Dela Rosa, and Crisanto went to the barangay hall the following day to ask for help. While they were there, Dela Rosa received a call from her niece, Donna, informing her that AAA was at her home looking for her, accompanied by police officers and Department of Social Welfare and Development personnel. When Dela Rosa returned home, the police apprehended her for reasons she did not know. At the police station, PO2 De Leon told her to admit to charges she was not even informed of yet. She later learned that she was being charged with human trafficking.²⁹

For his part, Crisanto alleged that Dela Rosa was being falsely accused of human trafficking to cover up CCC's negligence in raising AAA. He testified that upon Dela Rosa's arrest, AAA told him that she would help Dela Rosa, whom she said was "just implicated in the case."³⁰ Likewise, he

²⁵ Id.

²⁶ Id. at 47.

²⁷ Id.

²⁸ Id. at 48.

²⁹ Id.

³⁰ Id. at 50.

claimed that CCC assured him that she would help Dela Rosa.

Crisanto also testified that CCC allowed AAA to work at a bar, and should, thus, be the one held liable for what happened to AAA.³¹

Donna testified that on March 7, 2013, CCC asked her for Dela Rosa's whereabouts. She informed CCC that Dela Rosa was at home, and proceeded to text Dela Rosa that CCC was looking for her. Donna also heard CCC call Dela Rosa, asking that the latter help in looking for AAA. Donna testified that she did not know why CCC was looking for either Dela Rosa or AAA.³²

Donna then testified that AAA came home accompanied by police officers and personnel from the Department of Social Welfare and Development. CCC and Dela Rosa arrived shortly after. Dela Rosa stayed outside the house while AAA and CCC broke down crying. Donna did not know why they were crying or why government officials were present in AAA's house. Eventually, Donna saw them all leave, and only later did she learn that Dela Rosa had been detained.³³

In its October 1, 2013 Decision,³⁴ the Regional Trial Court acquitted Dela Rosa of the charges with respect to BBB. It found that Dela Rosa had no hand in BBB's encounter with Kim. BBB admitted that she went to Avante Hotel only upon AAA's request, and that she did not know how AAA came to know Kim. On cross-examination, BBB admitted that Dela Rosa had no participation in what happened to her.³⁵

As for what happened to AAA, the trial court found Dela Rosa guilty beyond reasonable doubt of qualified human trafficking, having found all the crime's elements present. Although the trial court found that Dela Rosa did not "recruit" or "hire" AAA,³⁶ Dela Rosa "transferred and provided AAA to Kim[.]"³⁷

The trial court gave credence to AAA's "clear, candid[,] and positive"³⁸ testimony that Dela Rosa invited AAA to meet at a supermarket, but subsequently brought her to a hotel where she was made to have sex with Kim.³⁹ It noted "the deportment of AAA while on the witness stand"⁴⁰

³¹ Id.

³² Id.

³³ Id. at 50-51.

³⁴ Id. at 39-64.

³⁵ Id. at 61-62.

³⁶ Id. at 57.

³⁷ Id.

³⁸ Id. at 58.

³⁹ Id. at 57.

⁴⁰ Id.

and found no reason to question her credibility. It also noted that AAA lived with Dela Rosa for over six (6) years, which made it unlikely that she would “fabricate stories against the accused who took care of her.”⁴¹

AAA’s age was likewise undisputed, which qualified the crime of human trafficking under Section 4(a) of Republic Act No. 9208.⁴²

However, the trial court found that Dela Rosa was not civilly liable for violating Republic Act No. 9208 because the prosecution failed to prove that AAA suffered “mental anguish, fright[,] and the like.”⁴³ To the trial court, even if AAA’s testimony had the effect that she “felt afraid,”⁴⁴ these were insufficient proof of mental suffering.⁴⁵

The dispositive portion of the Regional Trial Court Decision read:

WHEREFORE, premises considered, in Criminal Case no. 13-9820, the court finds accused Ruth dela Rosa y Likinon also known as “Sally” GUILTY BEYOND REASONABLE DOUBT of the offense of Violation of Section 4(a) in relation to Section 6(a) of Republic Act no. 9208 or Qualified Trafficking in Person (*sic*) penalized in Section 10 (c) thereof embodied in the Information dated March 8, 2013. Accordingly, accused Ruth dela Rosa y Likinon also known as “Sally” is hereby sentenced TO SUFFER the penalty of life imprisonment and TO PAY a fine in the amount of Two million pesos (P2,000,000.00).

In Criminal Case no. 13-9821, the court finds accused Ruth dela Rosa y Likinon also known as “Sally” NOT GUILTY of the offense of Violation of Section 4(a) in relation to Section 6(a) of Republic Act no. 9208 of Qualified Trafficking in Person (*sic*) penalized in Section 10 (c) of thereof (*sic*) embodied in the Information dated March 8, 2013 for failure of the prosecution to prove her guilt beyond reasonable doubt. Accordingly, accused Ruth dela Rosa y Likinon also known as “Sally” is hereby ACQUITTED of the charge in said Criminal Case no. 13-9821.

No costs.

SO ORDERED.⁴⁶

Dela Rosa appealed her conviction. In her Brief,⁴⁷ she argued that the prosecution failed to prove her guilt beyond reasonable doubt. She questioned AAA’s credibility given her failure to mention the February 2013 incident in the sworn statement taken by PO2 De Leon. This omission allegedly contradicted her testimony that Dela Rosa brought her to Coa

⁴¹ Id at 58.

⁴² Id.

⁴³ Id. at 59.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id. at 63–64.

⁴⁷ Id. at 25–38.

Hotel and instructed her to have sex with Kim.⁴⁸ Dela Rosa further argued that AAA's sworn statement indicates that she went to Avante Hotel on March 6, 2013 "on her own volition[.]"⁴⁹

The Office of the Solicitor General, on behalf of the People of the Philippines, countered in its Brief⁵⁰ that AAA's sworn statement and her testimony had no material inconsistencies. Her sworn statement was "merely responding to standard questions"⁵¹ that did not allude to events other than the March 6, 2013 incident. Hence, she may not be faulted for failing to disclose other relevant prior events, and her complete narration of events on trial may not be discredited.⁵²

Likewise, the Office of the Solicitor General asserted how AAA's testimony established that only through Dela Rosa's actions did AAA come to know Kim. Thus, AAA was made to endure what happened to her only because Dela Rosa made it so.⁵³

As for what happened to BBB, the Office of the Solicitor General no longer questioned Dela Rosa's acquittal.

In its March 29, 2016 Decision,⁵⁴ the Court of Appeals denied Dela Rosa's appeal and affirmed the Regional Trial Court Decision *in toto*.⁵⁵

The Court of Appeals affirmed the presence of all the elements of qualified trafficking in persons,⁵⁶ and found that Dela Rosa's contentions regarding AAA's credibility deserved scant consideration.⁵⁷ It held that since AAA's sworn statement pertained only to the March 6, 2013 incident, and not the February 2013 incident, it did not conflict with her testimony.⁵⁸ The Court of Appeals ultimately gave more credence to AAA's testimony over Dela Rosa's denials.⁵⁹

The dispositive portion of the Decision read:

WHEREFORE, the Appeal is DISMISSED. The October 1, 2013 Decision of the Regional Trial Court of Angeles City, Branch 59, finding

⁴⁸ Id. at 30–31.
⁴⁹ Id. at 31.
⁵⁰ Id. at 89–101.
⁵¹ Id. at 95.
⁵² Id. at 95–96.
⁵³ Id. at 96–98.
⁵⁴ *Rollo*, pp. 2–17.
⁵⁵ Id. at 16.
⁵⁶ Id. at 12.
⁵⁷ Id. at 11.
⁵⁸ Id. at 14.
⁵⁹ Id. at 15.

accused-appellant Ruth dela Rosa y Likinon also known as “Sally” guilty beyond reasonable doubt of violating Section 4(a), qualified by Section 6(a) of Republic Act No. 9208 in Criminal Case No. 13-9820, is AFFIRMED *in toto*.

SO ORDERED.⁶⁰

Thus, Dela Rosa filed a Notice of Appeal.⁶¹ The Court of Appeals gave due course to her appeal and forwarded the records of the case to this Court in its May 16, 2016 Resolution.⁶²

When required by this Court to submit supplemental briefs,⁶³ both parties manifested that their Briefs before the Court of Appeals sufficiently argued their positions.⁶⁴ In its June 7, 2017 Resolution,⁶⁵ this Court noted the parties’ Manifestations, together with the certification of Acting Superintendent Elsa Aquino-Alabado of the Correctional Institution for Women as to accused-appellant’s confinement.

The appeal forwards the sole issue of whether or not the Court of Appeals correctly affirmed the conviction of accused-appellant Ruth Dela Rosa y Likinon a.k.a. “Sally” for qualified human trafficking, as found by the Regional Trial Court. This necessarily involves a review of whether or not the lower courts correctly assessed the testimonies of the parties’ witnesses.

Accused-appellant maintains that the Court of Appeals erred in affirming the trial court’s ruling, given the material and irreconcilable difference between AAA’s sworn statement and her oral testimony. She asserts that there was no mention of the February 2013 incident from the sworn statement, without which she could not be deemed to have “transferred and provided” AAA to Kim. Likewise, the sworn statement clearly shows that AAA went to Avante Hotel on March 6, 2013 “on her own volition[.]”⁶⁶ While AAA’s sworn statement provides that Dela Rosa gave AAA’s phone number to Kim, even AAA admitted during trial that she was not sure if Dela Rosa did, in fact, do so.⁶⁷ Thus, Dela Rosa insists that AAA, “without prodding from others,”⁶⁸ voluntarily met with Kim on March 6, 2013.

But for the Office of the Solicitor General, the absence of the

⁶⁰ Id. at 16.

⁶¹ Id. at 18–20.

⁶² Id. at 21.

⁶³ Id. at 24–25.

⁶⁴ Id. at 27–32 (plaintiff-appellee’s Manifestation) and 33–37 (accused-appellant’s Manifestation).

⁶⁵ Id. at 38–39.

⁶⁶ *CA rollo*, p. 31.

⁶⁷ Id. at 32.

⁶⁸ Id. at 34.

February 2013 incident in AAA's sworn statement is not fatal to AAA's case. The omission was due to the "standard questions" propounded to AAA, which involved only the March 6, 2013 incident, leaving her no room to mention the February 2013 incident in her initial interview. In any event, AAA's testimony established that it was only through Dela Rosa's actions that AAA came to know Kim. Thus, AAA was exposed to Kim only because Dela Rosa introduced them to each other.⁶⁹

This Court resolves to dismiss the appeal.

In *People v. Casio*,⁷⁰ this Court lists the elements of trafficking in persons:

- (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."⁷¹ (Emphasis in the original, citation omitted)

Here, both the Regional Trial Court and the Court of Appeals found that accused-appellant committed qualified trafficking in persons under Section 4(a) in relation to Section 6(a) of Republic Act No. 9208, for having "transferred and provided" a then 16-year-old AAA to Kim in exchange for money.⁷²

The trial court found that while the absence of a "prior agreement"⁷³ between accused-appellant and AAA precluded "recruitment," accused-appellant still "transferred and provided" AAA to Kim.

This Court, however, maintains that "recruitment" also contemplates an accused's act of providing the conditions for prostituting AAA. Prostitution is defined under Section 3(c) of Republic Act No. 9208 as "any act, transaction, scheme or design involving the use of a person by another,

⁶⁹ Id. at 96-98.

⁷⁰ 749 Phil. 458 (2014) [Per J. Leonen, Second Division].

⁷¹ Id. at 472-473.

⁷² CA rollo, p. 57.

⁷³ Id.

for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.”

In *People v. Mora*,⁷⁴ a minor was “convinced” to accompany the accused to a bar in Camarines Sur, where she was forced to work as a prostitute until she was able to escape eight (8) months after. Thus, this Court found the accused guilty beyond reasonable doubt of qualified trafficking in persons. The following acts were appreciated as elements of the offense:

As correctly ruled by the courts *a quo*, Mora and Polvoriza are guilty beyond reasonable doubt of the crimes charged as *the prosecution had clearly established the existence of the elements* thereof, as seen in the following: (a) Mora, through deception and by taking advantage of AAA’s vulnerability as a minor, was able to “convince” the latter to go to Buraburan, Buhi, Camarines Sur; (b) upon arrival thereat, Mora took AAA to Polvoriza’s videoke bar, i.e., Otoy’s, and left her there; and (c) since then and for the next eight (8) months, Polvoriza forced AAA to work as a prostitute in Otoy’s, coercing her to perform lewd acts on a nightly basis, such as dancing naked in front of male customers and even having sex with them. In this regard, *the courts a quo correctly found untenable Mora and Polvoriza’s insistence that it was AAA who voluntarily presented herself to work as an entertainer/sex worker in Otoy’s, as trafficking in persons can still be committed even if the victim gives consent - most especially in cases where the victim is a minor.*⁷⁵ (Emphasis supplied, citations omitted)

Here, AAA’s testimony, which the lower courts had given greater credence than accused-appellant’s defense, narrated that accused-appellant asked her to come along on an undisclosed errand, which turned out to be a meeting with Kim at the Coa Hotel. Accused-appellant then introduced AAA to Kim, allowed AAA to be sexually exploited in exchange for payment, then directed AAA to continue servicing Kim’s requests under threat of exposing the girl to her mother.⁷⁶ Thus, the trial court held that accused-appellant engaged in human trafficking:

It can be readily deduced from the foregoing that it was through the accused that Kim Caben knew AAA. The accused was [the] one who brought AAA to Coa Hotel where they met Kim Caben. It was the accused who instructed AAA on what to do while in the hotel. The accused was even present when Kim Caben and AAA had sex. Without the accused bringing AAA to Coa Hotel, the February 2013 incident would not have happened. In other words, it was the accused who provided AAA to Kim Caben.⁷⁷ (Emphasis in the original)

⁷⁴ G.R. No. 242682, July 1, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65451>> [Per J. Perlas-Bernabe, Second Division].

⁷⁵ Id.

⁷⁶ CA rollo, p. 43.

⁷⁷ Id. at 57.

This occurred in February 2013. Yet, AAA's sworn statement, taken after she and BBB had been rescued on March 6, 2013,⁷⁸ did not mention this prior incident despite allegedly being discussed in her interview with PO2 De Leon.⁷⁹ According to accused-appellant, AAA's omission of the February 2013 incident in her sworn statement is materially inconsistent with her testimony in open court. This inconsistency, accused-appellant argues, casts reasonable doubt on her conviction.⁸⁰

Accused-appellant is mistaken. The trial court's assignment of probative value to witnesses' testimonies will not be disturbed except when significant matters were overlooked,⁸¹ because it "has the opportunity to observe the demeanor of the witness on the stand."⁸² *People v. Diu*⁸³ teaches that the trial court's findings acquire even greater weight once affirmed on appeal:

Thus, 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. These factual findings and conclusions assume greater weight if they are affirmed by the Court of Appeals.⁸⁴ (Citation omitted)

Furthermore, *People v. SPO1 Gonzalez, Jr.*⁸⁵ provides that sworn statements often conflict with testimonies given in open court. This is because sworn statements are seldom complete or comprehensive accounts of what actually happened:

It has been consistently held that discrepancies and/or inconsistencies between a witness' affidavit and testimony do not necessarily impair his credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack or absence of searching inquiries by the investigating officer. *What is important is, in the over-all analysis of the case, the trial court's findings and conclusions are duly supported by the evidence on record.*⁸⁶ (Emphasis supplied, citation omitted)

This reasoning informs the rule that "[a]ffidavits taken *ex parte* are generally considered inferior to the testimony given in open court."⁸⁷

⁷⁸ Id. at 44.

⁷⁹ Id. at 45.

⁸⁰ Id. at 31.

⁸¹ *People v. Dimapilit*, 816 Phil. 523, 541 (2017) [Per J. Leonen, Second Division].

⁸² Id. at 540–541.

⁸³ 708 Phil. 218 (2013) [Per J. Leonardo-De Castro, First Division].

⁸⁴ Id. at 232.

⁸⁵ 781 Phil. 149 (2016) [Per J. Perez, Third Division].

⁸⁶ Id. at 159.

⁸⁷ *People v. Dabon*, 290-A Phil. 449, 456 (1992) [Per J. Regalado, Second Division].

In any event, AAA's failure to mention the February 2013 incident is understandable given the questions asked of her in her sworn statement. The records forwarded to this Court reveal that the examination conducted by PO2 De Leon involved only the March 6, 2013 incident.⁸⁸ Thus, AAA never had the chance to include her encounter with Kim in February 2013.

Notwithstanding, AAA was still able to recount during trial what transpired in February 2013, to the trial court's satisfaction. The records also reveal that AAA affirmed the material points of her testimony on cross-examination.⁸⁹ Thus, the absence of the February 2013 incident from her sworn statement does not affect her credibility as a witness. Kim was able to know and sexually abuse AAA only because accused-appellant introduced them to each other.

Again, this Court emphasizes that "recruitment," as an element of trafficking in persons, includes the accused's acts of providing the conditions for prostituting a minor. Here, accused-appellant's admissions as to her relationship with Kim, and to having introduced him to AAA in a prior meeting, further convince this Court that she recruited, transferred, and provided AAA as a prostitute for Kim.

By highlighting the absence of the February 2013 incident from AAA's sworn statement, accused-appellant seemingly attempts to exculpate herself by showing that AAA consented to what was done to her, and that she voluntarily met with Kim on March 6, 2013.

However, *Casio* teaches that an accused cannot use the minor's consent as a defense. In *Casio*, the victim was alleged to have engaged in prostitution prior to the incident subject of the case, and to have been "predisposed to having sex with 'customers' for money."⁹⁰ This was deemed irrelevant to the commission of the crime:

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. *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

⁸⁸ *CA rollo*, pp. 30, 32–33, and 95.

⁸⁹ *Id.* at 46.

⁹⁰ *People v. Casio*, 749 Phil. 458, 475 (2014) [Per J. Leonen, Second Division].

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. . . .

The victim’s consent is rendered meaningless due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking. 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.⁹¹ (Emphasis supplied, citations omitted)

In this case, accused-appellant was found to have “transferred and provided AAA to Kim in exchange for money, through threats and by taking advantage of her vulnerability[.]”⁹² Accused-appellant failed to forward any arguments that would cast reasonable doubt on her conviction. Accordingly, this Court affirms her conviction.

However, this Court modifies accused-appellant’s liability for damages, as moral damages may be awarded here. *Casio* teaches that, consistent with *People v. Lalli*,⁹³ those found guilty of human trafficking may be held liable for moral and exemplary damages, as with other analogous crimes that cause the victim physical and mental suffering, besmirched reputation, moral shock, and social humiliation:

However, we modify by raising the award of moral damages from PhP150,000.00 to PhP500,000.00. We also award exemplary damages in the amount of Php100,000.00. These amounts are in accordance with the ruling in *People v. Lalli* 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:

⁹¹ Id. at 475–476.

⁹² *Rollo*, p. 12.

⁹³ 675 Phil. 126 (2011) [Per J. Carpio, Second Division].

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;
- (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.⁹⁴ (Emphasis supplied, citations omitted)

However, in the absence of any aggravating circumstances, this Court may not award exemplary damages.

WHEREFORE, the appeal is **DISMISSED**. The Court of Appeals' March 29, 2016 Decision is **AFFIRMED with MODIFICATION**. Accused-appellant Ruth Dela Rosa y Likinon a.k.a. "Sally" is found **GUILTY** beyond reasonable doubt of qualified trafficking in persons, defined under Section 4(a), in relation to Section 6(a), and penalized under Section 10(c) of Republic Act No. 9208. She is sentenced to suffer the penalty of life imprisonment, and to pay AAA a fine of ₱2,000,000.00, moral damages in the amount of ₱500,000.00, and the costs of the suit.

⁹⁴ *People v. Casio*, 749 Phil. 458, 482–483 (2014) [Per J. Leonen, Second Division].

All damages awarded shall be subject to interest at the rate of six percent (6%) per annum from the finality of this Decision until fully paid.⁹⁵

SO ORDERED.



MARVIC M.V.F. LEONEN

Associate Justice

Chairperson

WE CONCUR:

On leave

ALEXANDER G. GESMUNDO

Associate Justice

On official leave

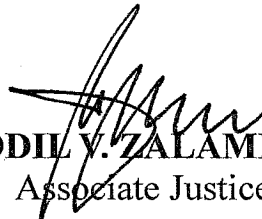


ROSMARI D. CARANDANG

Associate Justice

AMY C. LAZARO-JAVIER

Associate Justice



RODIL V. ZALAMEDA

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.



MARVIC M.V.F. LEONEN

Associate Justice

Chairperson, Third Division

⁹⁵ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

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.



DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

Mis D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

JAN 24 2020