



Republic of the Philippines  
 Supreme Court  
 Manila

[MODIFIED]

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
 Plaintiff-appellee,

G.R. No. 258194

Present:

GESMUNDO,  
*Chairperson,*  
 HERNANDO,  
 ZALAMEDA,  
 ROSARIO, and  
 MARQUEZ, JJ.

- versus -

XXX,<sup>1</sup>

Accused-appellant.

Promulgated:

MAY 29 2024

*mafecho*

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DECISION

**HERNANDO, J.:**

Accused-appellant XXX assails the Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12128, which affirmed with modification the Judgment<sup>3</sup> of the Regional Trial Court of ██████████ in Criminal Case Nos. 2017-0198, 2017-0203, 2017-0202, 2017-0201, 2017-0200, 2017-0199, 2017-0685 and 2017-0686, finding accused-appellant guilty beyond a reasonable doubt of:

<sup>1</sup> In line with the Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 7610 and Republic Act No. 9208, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

<sup>2</sup> *Rollo*, pp. 8–38. The January 29, 2020 Decision in CA-G.R. CR-HC No. 12128 was penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Remedios A. Salazar-Fernando and Geraldine C. Fiel-Macaraig of the First Division, Court of Appeals, Manila.

<sup>3</sup> *Id.* at pp. 58–85. The October 26, 2018 Judgment in Crim. Case Nos. 2017-0198, 2017-0203, 2017-0202, 2017-0201, 2017-0200, 2017-0199, 2017-0685, and 2017-0686 was penned by Judge Valentin E. Pura, Jr., of Branch 28, Regional Trial Court, Naga City.

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(1) two counts of violation of Section 5(b) of Republic Act No. 7610<sup>4</sup>, otherwise known as the “Special Protection of Children Against Abuse, Exploitation, and Discrimination Act;”

(2) three counts of violation of Section 5(a)(1) of Republic Act No. 7610; and

(3) three counts of violation of Section 4(a) in relation to Sections 6(a) and 10(c) of Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003,” as amended by Republic Act No. 10364.

### *The Facts of the Case*

Accused-appellant was charged in eight separate Informations as follows:

#### Criminal Case No. 2017-0198

Violation of Sec. 5 (a)(1), Art. III of Republic Act No. 7610

That on or about December 31, 2016, in the ██████████, Philippines<sup>5</sup> and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and criminally acted as procurer of herein complaining witness [AAA]<sup>6</sup> (DOB: October 26, 2003), a 13[-] year[-]old minor, to an unidentified male “GUEST”, for sexual favor, thus engaging and facilitating child prostitution for monetary consideration, thus subjecting her to [a] condition [that is] prejudicial to her development as a child, to her damage and prejudice.

#### **ACTS CONTRARY TO LAW.<sup>7</sup>**

#### Criminal Case No. 2017-0203

Violation of Sec. 4(a), Republic Act No. 7610 in relation to Sec. 6(a), Sec. 3(h), Sec. 2(c) of Republic Act No. 9208, as amended by Republic Act No. 10364

That on or about December 31, 2016, in the ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and criminally take advantage of the vulnerability of the herein complaining witness, [AAA] (DOB: October 26, 2003), a 13[-]year-old minor, by recruiting her for sexual exploitation to a male “guest” for a monetary consideration, to [her] damage and prejudice. The offense is qualified by the minority of the offended party.

<sup>4</sup> An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, And For Other Purposes (1992).

<sup>5</sup> Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

<sup>6</sup> “The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004.” (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

<sup>7</sup> RTC records (Criminal Case No. 2017-0198), p. 1.

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**ACTS CONTRARY TO LAW.<sup>8</sup>**Criminal Case No. 2017-0202

Violation of Sec. 5(a)(1), Art. III of Republic Act No. 7610

That on or about January 4, 2017, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and criminally acted as procurer of herein complaining witness [AAA] (DOB: October 26, 2003), a 13[-]year-old minor, to an unidentified male "GUEST", for sexual favor, thus engaging and facilitating child prostitution for monetary consideration, thus subjecting her to [a] condition [that is] prejudicial to her development as a child, to her damage and prejudice.

**ACTS CONTRARY TO LAW.<sup>9</sup>**Criminal Case No. 2017-0201

Violation of Sec. 4(a), [Republic Act] No. 7610 in relation to Sec. 3(H), Sec. 10(c) of [Republic Act] No. 9208, as amended by [Republic Act] No. 10364

That on or about January 4, 2017, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and criminally take advantage of the vulnerability of the herein complaining witness [AAA] (DOB: October 26, 2003), a 13[-]year-old minor, by recruiting her for sexual exploitation to a male "guest" for a monetary consideration, to [her] damage and prejudice. The offense is qualified by the minority of the offended party.

**ACTS CONTRARY TO LAW.<sup>10</sup>**Criminal Case No. 2017-0200

Violation of Sec. 5(a)(1), Art. III of [Republic Act] No. 7610

That on or about January 11, 2017, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and criminally acted as procurer of herein complaining witness [AAA] (DOB: October 26, 2003), a 13[-]year[-]old minor, to an unidentified male "GUEST", for sexual favor, thus engaging and facilitating child prostitution for monetary consideration, thus subjecting her to [a] condition [that is] prejudicial to her development as a child, to her damage and prejudice.

**ACTS CONTRARY TO LAW.<sup>11</sup>**Criminal Case No. 2017-0199

Violation of Sec. 4(a), Republic Act No. 7610 in relation to Sec. 6(a), Sec. 3(h) of Republic Act No. 9208, as amended by Republic Act No. 10364

That on or about January 11, 2017, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and criminally take advantage of the

<sup>8</sup> RTC records (Criminal Case No. 2017-0203), p. 1.

<sup>9</sup> RTC records (Criminal Case No. 2017-0202), p. 1.

<sup>10</sup> RTC records (Criminal Case No. 2017-0201), p. 1.

<sup>11</sup> RTC records (Criminal Case No. 2017-0200), p. 1.

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vulnerability of the herein complaining witness [AAA] (DOB: October 26, 2003), a 13[-]year-old minor, by recruiting her for sexual exploitation to a male “guest” for a monetary consideration, to [her] damage and prejudice. The offense is qualified by the minority of the offended party.

**ACTS CONTRARY TO LAW.<sup>12</sup>**

Criminal Case No. 2017-0686

Violation of Sec. 5(b) of Republic Act No. 7610

That on or about January 3, 2017, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through coercion and intimidation did, then and there, willfully and unlawfully have sexual intercourse with the herein complaining witness [AAA] (DOB: October 26, 2003), a 13[-]year[-]old minor, while uttering “puta man yan, ako lugod si naglalakaw para magkakwarta ka, ako lugod dai nakakagamit sa imo! (What is this, I am the one giving you customers so that you could have money, then I myself could not sexually use you!), against her will and without her consent, thus subjecting her to [a] condition [that is] prejudicial to her development as a child, to her damage and prejudice.

**ACTS CONTRARY TO LAW.<sup>13</sup>**

Criminal Case No. 2017-0685

Violation of Sec. Sec. 5(b) of Republic Act No. 7610

That on or about January 5, 2017, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through coercion and intimidation did, then and there, willfully and unlawfully have sexual intercourse with the herein complaining witness [AAA] (DOB: October 26, 2003), a 13[-]year[-]old minor, against her will and without her consent, thus subjecting her to [a] condition [that is] prejudicial to her development as a child, to her damage and prejudice.

**ACTS CONTRARY TO LAW.<sup>14</sup>**

During the arraignment, accused-appellant pleaded not guilty to the charges against him.

*Version of the Prosecution*

The prosecution presented five witnesses: (1) the father of private complainant; (2) Janet Alarcon of [REDACTED] Department of Social Welfare and Development; (3) the private complainant; (4) Rogel Intia of the National Bureau of Investigation (NBI); and (5) [REDACTED] Health Officer, Dr. Vito C. Borja II. The prosecution’s version of the events that transpired, as narrated by its witnesses, is as follows:

<sup>12</sup> RTC records (Criminal Case No. 2017-0199), p. 1.

<sup>13</sup> RTC records (Criminal Case No. 2017-0686), p. 1.

<sup>14</sup> RTC records (Criminal Case No. 2017-0685), p. 1.

Private complainant narrated that the first incident allegedly took place on December 31, 2016, when she was then 13 years old as evidenced by her Certificate of Live Birth.<sup>15</sup> Tired of her mother's nagging, private complainant left their house and went to a mall with her friend. Accused-appellant, knowing private complainant's predicament, approached and informed her that he is residing at the [REDACTED], and that he is recruiting girls for an escort service. Since private complainant had nowhere to go, she asked accused-appellant if she could stay in his hotel room. Accused-appellant agreed.<sup>16</sup> On the evening of the same day, accused-appellant asked private complainant to freshen up as he has a guest for her. Accused-appellant then ushered private complainant to the hotel lobby where a van was on standby. Upon approaching the vehicle, one of the three male occupants gave accused-appellant PHP 2,000.00. Accused-appellant then instructed private complainant to board the van.

The van then sped away and finally stopped in front of a warehouse. The person whom accused-appellant was conversing with earlier alighted from the van, and led private complainant inside the warehouse.<sup>17</sup> After bathing, the individual approached private complainant, removed her towel, and began fondling her breasts. He then asked private complainant to kneel down and give him a blow job.<sup>18</sup> Afterwards, he laid down private complainant, inserted his penis into her vagina, and ejaculated on top of her stomach.<sup>19</sup> Upon her return to the hotel, private complainant received PHP 1,500.00 from accused-appellant as payment for her services. Accused-appellant kept the PHP 500.00 as his cut.<sup>20</sup>

The second incident allegedly happened on January 3, 2017 when accused-appellant forced himself on private complainant who was then sleeping in his hotel room.<sup>21</sup> When private complainant tried to resist the advances of accused-appellant, the latter got mad, cursed, and reminded her that he was the one giving her customers, thus he can use her.<sup>22</sup> Frightened, private complainant gave in. Accused-appellant then had sexual intercourse with private complainant.<sup>23</sup>

On January 4, 2017, accused-appellant booked private complainant with another client.<sup>24</sup> Upon booking, private complainant went to the client's hotel room<sup>25</sup> where she had sexual intercourse with the client, after which she was

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<sup>15</sup> RTC records (Criminal Case No. 2017-0198), p. 82.

<sup>16</sup> TSN, AAA, January 25, 2018, p. 7.

<sup>17</sup> *Rollo*, p. 13.

<sup>18</sup> TSN, AAA October 26, 2017, p. 4.

<sup>19</sup> *Id.* at 5.

<sup>20</sup> TSN, AAA, January 25, 2018, p. 8.

<sup>21</sup> TSN, AAA, October 3, 2017, p. 9.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> TSN, AAA, October 26, 2017, p. 6.

<sup>25</sup> *Id.* at 8.

paid PHP 2,500.00, PHP 500.00 of which was given to accused-appellant as his commission.<sup>26</sup>

On January 5, 2017, private complainant felt a sharp and burning pain inside her private part every time she urinates.<sup>27</sup> Accused-appellant told her to wash up and that he will have sex with her so that the pain would disappear.<sup>28</sup> After fingering the private complainant, he put toothpaste around his penis and inserted it into her vagina for an hour.<sup>29</sup>

On January 11, 2017, accused-appellant booked another customer for private complainant. After engaging in sexual intercourse with the client, private complainant was given PHP 3,000.00, PHP 500.00 of which was given to accused-appellant as his share.<sup>30</sup>

On January 16, 2017, private complainant's father reported to the NBI that his daughter had left their home on December 24, 2016 and has not returned. They were then informed that she has been staying with a certain "XXX." When "XXX" learned about the report, he immediately brought private complainant to the NBI. During the investigation, private complainant confessed that accused-appellant was keeping her for prostitution.<sup>31</sup>

The physical examination conducted on private complainant by the City Health Officer, Dr. Vito Borja II, disclosed healed lacerations in her hymen at 6 o'clock and 11 o'clock positions. There were also secretions found in her cervix, and that she was positive for gonococcal infection.<sup>32</sup>

### *Version of the Defense*

The defense relied solely on the testimony of the accused-appellant. He narrated that he is a resident of [REDACTED].<sup>33</sup> He was working as a stay-in spotter at a billiard hall and a bet collector or "*kristo*" in [REDACTED] and its neighboring towns.<sup>34</sup> On January 15, 2017, he and the private complainant met for the first time in a hotel. It was his friend who introduced private complainant to him.<sup>35</sup> Accused-appellant allowed private complainant to stay in his hotel room that same night, and even slept beside each other.<sup>36</sup> When accused-appellant woke up the next morning, private complainant was no

<sup>26</sup> TSN, AAA, January 25, 2018, p. 8.

<sup>27</sup> TSN, AAA, October 3, 2017, p. 11.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 12-13.

<sup>30</sup> TSN, AAA, January 25, 2018, pp. 9-10.

<sup>31</sup> TSN, YYY, June 1, 2017, pp. 4-5.

<sup>32</sup> RTC records (Criminal Case No. 2017-0198), p. 9 (Medico-Legal Results).

<sup>33</sup> TSN, XXX, August 30, 2018, p. 2.

<sup>34</sup> TSN, XXX, July 25, 2018, pp. 3-4.

<sup>35</sup> *Id.* at 12.

<sup>36</sup> *Id.* at 13.

longer in his room. Shortly after, accused-appellant heard someone attempting to forcibly open the door. When he opened it, eight police officers forcibly brought him to the police station.<sup>37</sup> Accused-appellant denied sexually abusing private complainant or acting as her procurer.<sup>38</sup>

### *Ruling of the Regional Trial Court*

In a Judgment dated October 26, 2018, the RTC resolved as follows:

WHEREFORE, premises considered, Judgment is rendered as follows:

1. In Criminal Case No. 2017-0198, for Violation of Section 5(a)(1), Article III of Republic Act No. 7610, herein accused [XXX] is GUILTY as charged beyond reasonable doubt. He is hereby sentenced to a prison term of fourteen (14) years and eight (8) months of *reclusion temporal* as minimum, to twenty (20) years of *reclusion temporal* as maximum. He is ordered to pay [AAA] the amount of [PHP] 50,000.00 by way of civil indemnity. In the service of his sentence, he shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

2. In Criminal Case No. 2017-0203 for Violation of Section 4(a)[,] in relation to Sections 6(a) and 10(c)[,] of Republic Act No. 9208 as amended by Republic Act No. 10364, accused [XXX] is GUILTY as charged beyond [a] reasonable doubt. He is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos ([PHP] 2 Million). He is likewise ordered to pay [AAA] the amount of [PHP] 250,000.00 by way of moral damages and [PHP] 100,000.00 as exemplary damages. In the service of his sentence, accused shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

3. In Criminal Case No. 2017-0202 for Violation of Section 5(a)(1), Article III of Republic Act No. 7610, herein accused [XXX] is GUILTY as charged beyond [a] reasonable doubt. He is hereby sentenced to a prison term of fourteen (14) years and eight (8) months of *reclusion temporal* as minimum, to twenty (20) years of *reclusion temporal* as maximum. He is ordered to pay [AAA] the amount of [PHP] 50,000.00 by way of civil indemnity. In the service of his sentence [he] shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

4. In Criminal Case No. 2017-0201 for Violation of Section 4(a)[,] in relation to Sections 6(a) and 10(c)[,] of Republic Act No. 9208[,], as amended by Republic Act No. 10364, accused [XXX] is GUILTY as charged beyond [a] reasonable doubt. He is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos ([PHP] 2 Million). He is likewise ordered to pay [AAA] the amount of [PHP] 250,000.00 by way of moral damages and [PHP] 100,000.00 as exemplary damages. In the service of his sentence, accused shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 14-16.

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5. In Criminal Case No. 2017-0200, for Violation of Section 5(a)(1), Article III of Republic Act No. 7610, herein accused [XXX] is GUILTY as charged beyond [a] reasonable doubt. He is hereby sentenced to a prison term of fourteen (14) years and eight (8) months of *reclusion temporal* as minimum, to twenty (20) years of *reclusion temporal* as maximum. He is ordered to pay AAA] the amount of [PHP] 50,000.00 by way of civil indemnity. In the service of his sentence he shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

6. In Criminal Case No. 2017-0199 for Violation of Section 4(a)[,] in relation to Sections 6(a) and 10(c)[,] of Republic Act No. 9208, as amended by Republic Act No. 10364, accused [XXX] is GUILTY as charged beyond [a] reasonable doubt. He is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos ([PHP] 2 Million). He is likewise ordered to pay [AAA] the amount of [PHP] 250,000.00 by way of moral damages and [PHP] 100,000.00 as exemplary damages. In the service of his sentence, accused shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

7. In Criminal Case No. 2017-0685 for Violation of Section 5(b), Article III of Republic Act No. 7610, herein accused [XXX] is GUILTY as charged beyond [a] reasonable doubt. He is hereby sentenced to a prison term of fourteen (14) years and eight (8) months of *reclusion temporal* as minimum, to twenty (20) years of *reclusion temporal* as maximum. He is likewise ordered to pay [AAA] the amount of [PHP] 50,000.00 by way of civil indemnity. In the service of his sentence, he shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

8. In Criminal Case No. 2017-0686 for Violation of Section 5(b), Article III of Republic Act No. 7610, herein accused [XXX] is GUILTY as charged beyond [a] reasonable doubt. He is hereby sentenced to a prison term of fourteen (14) years and eight (8) months of *reclusion temporal* as minimum, to twenty (20) years of *reclusion temporal* as maximum. He is likewise ordered to pay [AAA] the amount of [PHP] 50,000.00 by way of civil indemnity. In the service of his sentence, he shall be credited with the period of his preventive detention pursuant to the provisions of Article 29 of the Revised Penal Code, as amended.

SO ORDERED.<sup>39</sup>

The RTC found accused-appellant to have facilitated and promoted the child prostitution of private complainant. On three occasions, and at the tender age of 13, accused-appellant offered private complainant to male clients to engage in sexual intercourse for a fee. Accused-appellant's acts clearly amounted to three counts of violation of Section 5(a)(1) of Republic Act No. 7610.<sup>40</sup>

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<sup>39</sup> *Rollo*, pp. 82-84.

<sup>40</sup> *Id.* at 59-70.



Anent the charge of Qualified Trafficking in Persons, the RTC found that all the elements of the said offense have been established beyond a reasonable doubt.<sup>41</sup>

Accused-appellant was further convicted of two counts of violation of Section 5(b) of Republic Act No. 7610. The trial court gave credence to private complainant's testimony that on January 3, 2017, accused-appellant forced himself upon her and had carnal knowledge of her against her will and consent. The second molestation happened when he had sexual intercourse with the private complainant on the pretext that the same would alleviate the pain in her private part whenever she urinates.<sup>42</sup>

The RTC disregarded accused-appellant's defenses of alibi and denial vis-a-vis the private complainant's positive identification and lack of ill motive in testifying against him. The court *a quo* also did not lend credence to accused-appellant's contention that he was not the "XXX" against whom the charges were filed, his real name being XXX, for lack of sufficient evidence.<sup>43</sup>

Aggrieved, accused-appellant appealed before the CA. He pointed out alleged inconsistencies in the testimony of the private complainant. to wit:—(1) she was not sure as to when accused-appellant started pimping her; (2) private complainant admitted that she was already engaged in prostitution even prior to meeting the accused-appellant on December 31, 2016; and (3) the presumption that a child is incapable of giving rational consent has already been overturned by private complainant's own testimony and her own declaration as to her ways.<sup>44</sup>

### *Ruling of the Court of Appeals*

The CA dismissed the accused-appellant's appeal and affirmed the Judgment of the RTC with modifications. The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the present appeal is **DENIED**. The assailed October 26, 2018 Judgment of the Regional Trial Court (RTC) of [REDACTED], Branch 28, in *Criminal Case Nos. 2017-0198, 2017-0199 to 0203, 2017-0685 to 0686*, is **AFFIRMED** with **MODIFICATIONS**, to wit:

(1) In *Criminal [Case] No[s]. 2017-0685 to 0686[,]* accused-appellant [XXX] is held guilty of two (2) counts of sexual intercourse committed against children exploited in prostitution or other sexual abuse in violation of Section 5(b) of Republic Act No. 7610. He is sentenced to suffer the indeterminate sentence of eight (8) years and one (1) day of *prision mayor*, as minimum, to 14

<sup>41</sup> *Id.* at 71–73.

<sup>42</sup> *Id.* at 73–80.

<sup>43</sup> *Id.* at 81.

<sup>44</sup> *CA rollo*, pp. 42–53.

years and eight (8) months of *reclusion temporal*, as maximum, for each count. He is also ordered to pay private complainant [AAA] the amount[s] of PHP 20,000.00 as civil indemnity, PHP 15,000.00 as moral damages, PHP 15,000.00 as exemplary damages, and a fine of PHP 15,000.00, for each count;

(2) In *Criminal [Case] Nos. 2017-0198, 2017-0200 and 2017-0202*, accused-appellant [XXX] is held guilty of three (3) counts of Violation of Section 5(a)(1) of [Republic Act] No. 7610. He is sentenced to suffer the indeterminate sentence of eight (8) years and one (1) day of *prision mayor*, as minimum, to 14 years and eight (8) months of *reclusion temporal*, as maximum, for each count. He is also ordered to pay private complainant [AAA] the amount of [PHP] 20,000.00 as civil indemnity, [PHP] 15,000.00 as moral damages, [PHP] 15,000.00 as exemplary damages, and a fine of [PHP] 15,000.00, for each count; and

(3) In *Criminal [Case] Nos. 2017-0199, 2017-0201 and 2017-0203*, accused-appellant [XXX] is held guilty of three (3) counts of Violation of Section 4(a)[,] in relation to Sections 6(a) and 10(c)[,] of [Republic Act] No. 9208, as amended by [Republic Act] No. 10364. He is therefore sentenced to suffer the penalty of life imprisonment and to pay private complainant [AAA] the following amounts for each count: (a) [PHP] 2,000,000.00 as fine, (b) [PHP] 500,000.00 as moral damages, and (c) [PHP] 100,000.00 as exemplary damages.

All amount[s] of damages shall incur legal interest at the rate of six percent (6%) *per annum* from finality of this Decision until fully paid.

**SO ORDERED.**<sup>45</sup>

The CA held that the trial court did not err in ruling against the accused-appellant. The private complainant's narration was full of details and corroborated by the Medico-Legal Report of Dr. Borja which indicated healed hymenal lacerations at 6 and 11 o'clock positions, secretions in the cervix, and gonococcal infection. The appellate court emphasized that the findings of the trial court on the credibility of witnesses are not to be disturbed, and are treated with much weight and great respect, since the trial court had the best opportunity to observe the demeanor of the individuals who took the witness stand.<sup>46</sup>

The appellate court concurred with the trial court that all the elements of the following crimes have been established:

(1) Violation of Section 5(b)<sup>47</sup> of Republic Act No. 7610 which punishes engaging in sexual intercourse with a child exploited in prostitution or other

<sup>45</sup> *Rollo*, pp. 36-37.

<sup>46</sup> *Id.* at 20.

<sup>47</sup> Section 5. *Child Prostitution and Other Sexual Abuse*. — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) ...

....

sexual abuse. Here, accused-appellant forced himself twice upon private complainant, first on January 3, 2017 and another on January 5, 2017.<sup>48</sup>

The following elements were found to be present: (1) that the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child, whether male or female, is below 18 years of age.<sup>49</sup>

To recall, on January 3, 2017, accused-appellant sucked private complainant's breasts, inserted his penis inside her vagina, and proceeded to have sexual intercourse with her.<sup>50</sup>

During the second molestation on January 5, 2017, accused-appellant fingered private complainant, applied toothpaste around his penis and inserted it inside private complainant's vagina.<sup>51</sup>

During both occasions, the private complainant was only 13 years old while accused-appellant was already a grown male. The disparity in their age and the dire circumstances of the private complainant put accused-appellant in a superior position over private complainant which allowed him to exert his will and authority upon the latter.

(2) The CA likewise found proper the RTC's conviction of accused-appellant for violation of Sec. 5(a)(1)<sup>52</sup> of Republic Act No. 7610, in relation to Sec. 6(a)<sup>53</sup> and 10(c),<sup>54</sup> of Republic Act No. 9208, as amended by Republic Act No. 10364,<sup>55</sup> or the Expanded Anti-Trafficking in Persons Act of 2012.

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(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution . . .

<sup>48</sup> *Rollo*, pp. 20–24.

<sup>49</sup> *Id.*

<sup>50</sup> TSN, AAA, October 26, 2017, p. 9.

<sup>51</sup> *Id.* at 10–13.

<sup>52</sup> Sec. 5. *Child Prostitution and Other Sexual Abuse*. — Children, whether male or female, who for money, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse. The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

(1) Acting as a procurer of a child prostitute;

<sup>53</sup> Section 6. *Qualified Trafficking in Persons*. — The following are considered as qualified trafficking:

(a) When the trafficked person is a child;

<sup>54</sup> Section 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 Section 4-B of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos ([PHP] 500,000.00) but not more than One Million pesos ([PHP] 1,000,000.00).

<sup>55</sup> *Rollo*, pp. 24–33.

The elements are as follows: (a) the accused acted as a procurer of a child prostitute; and (b) the child prostitute, whether male or female, is below 18 years of age.<sup>56</sup>

As narrated in detail by the private complainant, accused-appellant procured the former as a prostitute and booked her with various clients. Private complainant was only 13 years old when she was offered for sexual favors to different male guests<sup>57</sup> for a fee.

(3) The CA likewise concurred with the finding of the trial court that the prosecution was able to sufficiently establish accused-appellant's guilt for violation of Section 4(a),<sup>58</sup> in relation to Sections 6(a), 3(h) and 10(c), of Republic Act No. 9208, as amended by Republic Act No. 10364, or the crime of trafficking in persons.<sup>59</sup>

The CA similarly found that accused-appellant recruited the private complainant to engage in prostitution by offering her to three male clients for a fee after engaging in sexual intercourse with them. During those instances when private complainant was trafficked, she was only 13 years old. Accused-appellant exploited the private complainant and took advantage of her vulnerable situation.<sup>60</sup>

Aggrieved, accused-appellant seeks reconsideration of the guilty verdict of the lower courts before this Court.<sup>61</sup>

### *Issue*

The issue for the Court's resolution is whether accused-appellant's guilt for the imputations against him was proven beyond a reasonable doubt.

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<sup>56</sup> *Id.* at 24-25.

<sup>57</sup> *Id.* at 25.

<sup>58</sup> Section 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, obtain, hire, provide, offer, transport, transfer, maintain, harbor, 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, or sexual exploitation;

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

.....  
(h) Sexual Exploitation — refers to participation by a person in prostitution, pornography or the production of pornography, in exchange for money, profit or any other consideration or where the participation is caused or facilitated by any means of intimidation or threat, use of force, or other forms of coercion, abduction, fraud, deception, debt bondage, abuse of power or of position or of legal process, taking advantage of the vulnerability of the person, or giving or receiving of payments or benefits to achieve the consent of a person having control of another person, or in sexual intercourse or lascivious conduct caused or facilitated by any means provided in this Act.

<sup>59</sup> *Rollo*, pp. 31-53.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 3.

*W*

### *Our Ruling*

The appeal is bereft of merit.

Accused-appellant argues that the inconsistencies in the statements given by the private complainant cast doubt on his guilt thereby warranting his acquittal. He posits that the private complainant was unsure as regards the date when accused-appellant started sexually exploiting her. This allegedly shows that the private complainant's account was not categorical or straightforward, thus eroding her credibility as a witness, as she could not have been mistaken of such a fateful tribulation allegedly involving the accused-appellant, had it ever truly happened.<sup>62</sup> Further, accused-appellant argues that private complainant's admission that she was already engaged in this kind of activity prior to their meeting on December 31, 2016 casts doubt as to his culpability. He emphasizes that it is highly unlikely that he or anybody for that matter, would still need to act as a procurer of private complainant when the latter, on her own, already knows well the loops of the trade.<sup>63</sup>

We are not convinced. It is a well-settled rule that "if the testimonial inconsistencies do not hinge on any essential element of the crime, such inconsistencies are deemed insignificant and will not have any bearing on the essential fact or facts testified to. These inconsistencies, if at all, even indicate that the witness was not rehearsed."<sup>64</sup>

*Accused-appellant is guilty of two counts of violation of Section 5(b) of Republic Act No. 7610*

The RTC and the CA convicted accused-appellant of two counts of sexual intercourse committed against children exploited in prostitution or other sexual abuse in violation of Section 5(b) of Republic Act No 7610 for forcing himself upon the victim twice, on January 3 and 5, 2017.

Jurisprudence dictates the essential elements of violation of Section 5 (b) of Republic Act No. 7610 are as follows: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child whether male or female, is below 18 years of age.<sup>65</sup>

All the elements are present in the case at bar.

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<sup>62</sup> CA rollo, pp. 46–48.

<sup>63</sup> *Id.* at 50.

<sup>64</sup> *People v. Miranda*, G.R. No. 261970, June 14, 2023 [Per J. Singh, Third Division] at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>65</sup> *XXX255931 v. People*, G.R. No. 255931, August 23, 2023 [Per J. Lopez, J., Second Division] at 9. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

First, accused-appellant had sexual intercourse with the private complainant on two occasions—on January 3 and 5, 2017. The private complainant narrated the incidents as follows:

January 3, 2017 incident:

Q: So you said that you were awakened because somebody was holding your stomach, what did you do when you were awakened?

A: When I felt somebody was touching my stomach, I turned my back and I saw [XXX] who was only wearing shorts and I asked, “na ano ka po?” (“What happened to you?”) He told me, “sarlo lang Be, madali lang” (“Just one Be, it will be quick”).

Q: What did you understand from that statement of [XXX]?

A: That he will use me, Ma’am.

Q: For sex?

A: Yes ma’am.

Q: What did you feel that time?”

A: I felt afraid, Ma’am.<sup>66</sup>

.....

Q: What happened next?

A: I told him that I don’t want to and I noticed that he was angry and then he told me: “Putangin niyo” (“this whore”), I am the one who is looking for customers for you yet I will not be able to use you.

Q: What was your reaction?

A: I was afraid, Ma’am, so I was not able to do anything.

Q: What did he do to you after making those utterances?

A: He removed the strap of my bra, Ma’am.

Q: What else?

A: And then he pulled my shirt up and then I noticed that the button of my shorts was already opened and he pulled it down, Ma’am.

Q: What else happened?

A: He kissed my breast and then while kissing my breast he pulled my shorts down when he did that to me, I just closed my eyes and clenched my fists, Ma’am.

Q: What else?

A: And then he inserted his penis inside my vagina, Ma’am.

.....

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<sup>66</sup> TSN, AAA, October 26, 2017, pp. 9–10.

*w*

Q: What was there in your mind, if ever, why did you not fight back?  
A: I was afraid, Ma'am.<sup>67</sup>

January 5, 2017 incident:

Q: On January 5, 2017, at about 7:00 pm, do you recall what happened?  
A: Yes, ma'am.

Q: Where were you at that time?  
A: I was in his room again, Ma'am.<sup>68</sup>

.....

A: It was in the afternoon, I told him that my vagina is painful when I urinate. He told me to wash. I went to the comfort room. When I went inside the room in [REDACTED], the room smelled [like] colgate, Ma'am.

Q: What happened once you were inside the room?  
A: When I entered the room, it smelled of Colgate and he told me that he put Colgate in his penis and that if he will insert it inside my vagina, the pain will disappear, Ma'am.<sup>69</sup>

.....

Q: What happened after you were told that if he will have sexual intercourse with you that the pain and irritation on your vagina would disappear?  
A: None, Ma'am. I did not say anything and then he told me to lie down and so I lay down, Ma'am.

Q: Why did you lie down when he told you to lie down?  
A: That he will insert his penis in my vagina, Ma'am.

Q: And for what purpose that he will insert his penis in your vagina?  
A: Because he put Colgate on his penis and that if he will insert it in my vagina, the pain in my vagina will disappear, Ma'am.

Q: And you believed him?  
A: Yes, Ma'am.

.....

Q: Prior to inserting his penis to your vagina, did he also hold any part of your private part?  
A: He touched my vagina, Ma'am.

Q: How did he touch your vagina?  
A: At first, he just held my vagina and after that he inserted his finger in my vagina, Ma'am.<sup>70</sup>

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<sup>67</sup> *Id.* at 10.

<sup>68</sup> *Id.* at 11.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 11-13.

W

The private complainant was only 13 years old when she was molested. Her Certificate of Live Birth shows that she was born on October 26, 2003. In this case, the disparity in accused-appellant's and the private complainant's ages, and the desperate situation of the private complainant, who was then penniless and temporarily homeless as she ran away from home, allowed accused-appellant to exert his will upon her. Further, the private complainant testified that she could not resist accused-appellant because of fear. Lastly, private complainant's minority was sufficiently established. In fine, all the elements for two counts of violation of Section 5(b) of Republic Act No. 7610 have been satisfactorily established by the prosecution.

*Accused-appellant is guilty of violation of Section 5(a)(1) of Republic Act No. 7610*

The conviction of accused-appellant for violation of Sec. 5(a)(1) of Republic Act No. 7610, in relation to Secs. 6(a) and 10(c) of Republic Act No. 9208, as amended by Republic Act No. 10364, is proper.

The relevant provision reads:

**ARTICLE III**  
***Child Prostitution and Other Sexual Abuse***

**Section 5. *Child Prostitution and Other Sexual Abuse.*** – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

(1) Acting as a procurer of a child prostitute;<sup>71</sup>

The elements of the offense are: (1) the accused acted as a procurer of a child prostitute; (2) the child prostitute, whether male or female, is below 18 years of age. Both of these elements have been categorically established by the prosecution.

The facts show that accused-appellant procured the private complainant as a prostitute and booked her with various clients when she was only 13 years old.

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<sup>71</sup> Republic Act No. 7610 (1992), sec. 5, as amended by Republic Act No. 9231 (2003), Special Protection of Children Against Abuse, Exploitation and Discrimination Act.



The first instance happened on December 31, 2016. Private complainant had sexual intercourse with a client inside a warehouse for which she was paid PHP 1,500.00 for the service, while accused-appellant received PHP 500.00 as commission.<sup>72</sup>

The second instance took place on January 4, 2017. The male client fondled private complainant's breasts and proceeded to have carnal knowledge of her. Private complainant received PHP 2,500.00 as payment, the PHP 500.00 of which she gave to accused-appellant as his share.<sup>73</sup>

The third incident happened on January 11, 2017. Accused-Appellant peddled private complainant to another male client, where after engaging the private complainant in sexual intercourse, paid her PHP 3,000.00. Accused-appellant received PHP 500.00 as his fee.<sup>74</sup>

Clearly, private complainant was engaged by accused-appellant into child prostitution.

*Accused-appellant is guilty of violation of Section 4(a), in relation to Sections 6(a), 3(h) and 10(c), of Republic Act No. 9208, as amended by Republic Act No. 10364*

The guilt of accused-appellant for violation of Section 4(a), in relation to Sections 6(a), 3(h), and 10(c), of Republic Act No. 9208, as amended by Republic Act No. 10364, has also been likewise sufficiently established by the prosecution.

The elements of trafficking in persons under Republic Act No. 9208, as amended by Republic Act No. 10364, are as follows: (1) the act of recruiting, obtaining, hiring, providing, offering, transporting, transferring, maintaining, harboring, or receiving of persons; (2) done with or without the victim's consent or knowledge; (3) within or across national borders (4) 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; (5) 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, involuntary servitude or the removal or sale of organs.<sup>75</sup>

<sup>72</sup> TSN, AAA, October 26, 2017, pp. 3-5.

<sup>73</sup> *Id.* at 6-8.

<sup>74</sup> *Id.* at 8-9.

<sup>75</sup> Republic Act No. 9208 (2003), sec. 3(a), Anti-Trafficking in Persons Act of 2003.

Accused-appellant was charged under Sec. (a), which states:

**SECTION 4. Acts of Trafficking in Persons.** – It shall be unlawful for any person, natural or juridical, 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 the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage.

The crime is further qualified under Section 6(a) of Republic Act No. 9208 when the trafficked person is a child.<sup>76</sup>

The facts as established by the prosecution clearly show that all the elements of human trafficking are present. Accused-appellant recruited private complainant to engage in prostitution, and offered her to three male clients to engage in sexual intercourse for a fee.<sup>77</sup> Private complainant was only 13 years old when she was trafficked by accused-appellant. Circumstances showed that accused-appellant took advantage of private complainant's dire situation as she was without money and homeless. Private complainant's minority and circumstances at that time allowed accused-appellant to manipulate her into prostitution with various individuals from which income he also benefited as he was given various amounts as commission.<sup>78</sup>

This Court further emphasizes that there is no violation of accused-appellants right against double jeopardy. While the elements of human trafficking under Republic Act No. 9208 are similar if not the same as that of child prostitution under Sec. 5(a)(1), Art. III of Republic Act No. 7610, the two offenses differ.

Republic Act No. 7610 carries out the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development, and over which they have no control.<sup>79</sup> The law punishes acts pertaining to or connected with child prostitution wherein the child is abused primarily for profit.<sup>80</sup> Whereas in Republic Act No. 9208, the gravamen of the crime of trafficking is "the act of recruiting or using, with or without consent, a fellow human being for [inter alia,] sexual exploitation."<sup>81</sup>

<sup>76</sup> **Section 6. Qualified Trafficking in Persons.** – The following are considered as qualified trafficking:  
(a) When the trafficked person is a child[.]

<sup>77</sup> *Rollo*, pp. 31–32.

<sup>78</sup> *Id.*

<sup>79</sup> Republic Act No. 7610, sec. 2.

<sup>80</sup> *Brozoto v. People*, G.R. No. 233420, April 28, 2021 [Per J. Lopez, J., Third Division].

<sup>81</sup> *Id.*

Further, it is elementary in criminal law that a single criminal act may give rise to a multiplicity of offenses and where there is variance or differences between the elements of an offense in one law and another law,<sup>82</sup> as in the case at bar, the constitutional protection against double jeopardy is not available where the second prosecution is for an offense that is different from the offense charged in the first or prior prosecution, although both the first and second offenses may be based upon the same act or set of facts.<sup>83</sup> Republic Act No. 7610 criminalizes accused-appellant's acts of being a procurer of a child prostitute, whereas Republic Act No. 9208 punishes the general act of recruiting, transporting, transferring, harboring, providing, or receiving 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. Thus, the conviction of accused-appellant for violations of Republic Act No. 7610 and Republic Act No. 9208 does not violate his constitutional right against double jeopardy.

For the two counts of violation of Sec. 5(b) of Republic Act No. 7610, the law imposes the penalty of *reclusion temporal* in its medium period to *reclusion perpetua*. Thus, the penalty imposed by the CA which is an indeterminate sentence of eight years and one day of *prision mayor*, as minimum, to 14 years and eight months of *reclusion temporal* as maximum, need to be modified to 14 years and 8 months of *reclusion temporal*, as minimum, to 20 years of *reclusion temporal*, as maximum.

Moreover, the damages awarded must likewise be modified pursuant to prevailing jurisprudence. The awards of moral damages, civil indemnity and exemplary damages are increased to PHP 50,000.00 each, for each count.<sup>84</sup> The fine of PHP 15,000.00 is maintained.

As regards the three counts of violation of Sec. 4(a), in relation to Sections 6(a) and 10(c) of Republic Act No. 9208, as amended by Republic Act No. 10364, the CA properly imposed upon the accused-appellant the penalty of life imprisonment, fine of PHP 2 Million, moral damages of PHP 500,000.00 and exemplary damages of PHP 100,000.00, for each count.

Finally, for the three counts of violation of Sec. 5(a)(1) of Republic Act No. 7610, the law likewise provides for the penalty of *reclusion temporal* in its medium period to *reclusion perpetua*. Thus, the penalty imposed by the CA, i.e., indeterminate sentence of eight years and one day of *prision mayor*, as

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<sup>82</sup> *People v. Udang, Sr.*, 823 Phil. 411, 411 (2018) [Per J. Leonen, Third Division].

<sup>83</sup> *People v. Milflores*, 201 Phil. 154, 170 (1982) [Per J. Barredo, Second Division].

<sup>84</sup> *People v. Viloria*, G.R. No. 249000, July 5, 2023 [Notice, First Division].

minimum, to 14 years and eight months of *reclusion temporal*, as maximum, for each count, is must be modified as follows: 10 years, 2 months and 21 days of *prision mayor*, as minimum, to 17 years, 4 months and 1 day of *reclusion temporal*, as maximum.

Also, there is a need to modify the damages awarded. Pursuant to prevailing jurisprudence, the awards of moral damages, civil indemnity, and exemplary damages are increased to PHP 50,000.00 each, for each count. The fine of PHP 15,000.00 is maintained.

**FOR THESE REASONS**, the appeal is **DISMISSED**. The assailed January 29, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 12128 is **AFFIRMED** with **MODIFICATIONS**. Accused-appellant XXX is **GUILTY** beyond reasonable doubt of:

(1) two counts of sexual intercourse committed against children exploited in prostitution or other sexual abuse in violation of Section 5(b) of Republic Act No. 7610, otherwise known as the “Special Protection of Children Against Abuse, Exploitation, and Discrimination Act;” He is sentenced to suffer for each count, the indeterminate penalty of 14 years and 8 months of *reclusion temporal*, as minimum, to 20 years of *reclusion temporal*, as maximum. The awards of moral damages, civil indemnity, and exemplary damages are increased to PHP 50,000.00 each, for each account. The fine of PHP 15,000.00 is maintained.

(2) three counts of violation of Section 5(a)(1) of Republic Act No. 7610. He is sentenced, for each count, to suffer the indeterminate penalty of 10 years, 2 months and 21 days of *prision mayor*, as minimum, to 17 years, 4 months and 1 day of *reclusion temporal*, as maximum. Moreover, the awards of moral damages, civil indemnity, and exemplary damages, are increased to PHP 50,000.00 each, for each count. The fine of PHP 15,000.00 is retained.

(3) three counts of violation of Section 4(a), in relation to Sections 6(a) and 10(c), of Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003,” as amended by Republic Act No. 10364. The penalty imposed by the Court of Appeals and the damages awarded by the Court of Appeals, are maintained.

*W*

**SO ORDERED.**



**RAMON PAUL L. HERNANDO**

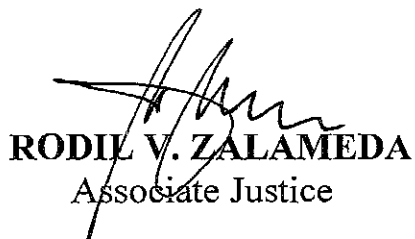
Associate Justice  
Working Chairperson

WE CONCUR:



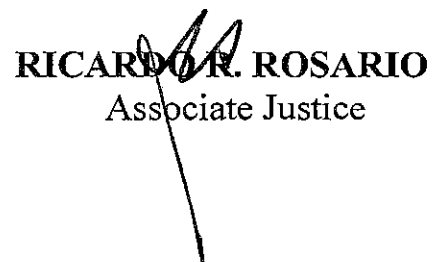
**ALEXANDER G. GESMUNDO**

Chairperson  
Chief Justice




**RODIL V. ZALAMEDA**

Associate Justice



**RICARDO R. ROSARIO**

Associate Justice

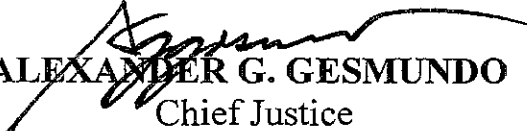


**JOSE MIDAS P. MARQUEZ**

Associate Justice

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice