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SECOND DIVISION

PEOPLE OF THE PHILIPPINES,

G.R. No. 195419

Plaintiff-Appellee,

Present:

- versus -

CARPIO, *J.*, Chairperson,

BRION,

SERENO,

REYES, and

HADJA JARMA LALLI y PURIH,

PERLAS-BERNABE,* *JJ.*

RONNIE ARINGOY y MASION,

and NESTOR RELAMPAGOS (at large),

Accused.

HADJA JARMA LALLI y PURIH and

Promulgated:

RONNIE ARINGOY y MASION,

Accused-Appellants.

October 12, 2011

DECISION

CARPIO, *J.*:

The Case

This is a consolidated criminal case filed against the accused-appellants for the crimes of Illegal Recruitment (Criminal Case No. 21930) and Trafficking in Persons (Criminal Case No. 21908).

The Regional Trial Court (RTC) of Zamboanga City, in its Decision dated 29 November 2005 (RTC Decision),⁺ found accused-appellants guilty beyond reasonable doubt of the crimes of Illegal Recruitment and Trafficking in Persons committed by a syndicate, and sentenced each of the accused to suffer the penalty of life imprisonment plus payment of fines and damages. On appeal, the Court of Appeals (CA) in Cagayan de Oro, in its Decision dated 26 February 2010 (CA Decision),[±] affirmed *in toto* the RTC Decision. The accused-appellants appealed to this Court by filing a Notice of Appeal[‡] in accordance with Section 3(c), Rule 122 of the Rules of Court.

The Facts

The findings of fact of the RTC, which were affirmed *in toto* by the CA, are as follows:

In the evening of June 3, 2005, while L.S.P., 23 years old, single, was in Tumaga, Zamboanga City on her way to the house of her grandfather, she met Ronnie Masion Aringoy and Rachel Aringoy Cañete. Ronnie greeted L., “Oy, it’s good you are here” (“oy, maayo kay dia ka”). Rachel asked L. if she is interested to work in Malaysia. x x x L. was interested so she gave her cellphone number to Ronnie. After their conversation, L. proceeded to her grandfather’s house.

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On June 4, 2005, at about 7:00 o’clock in the morning, L. received a text message from Ronnie Aringoy inviting her to go to the latter’s house. At 7:30 in the morning, they met at Tumaga on the road near the place where they had a conversation the night before. Ronnie brought L. to the house of his sister in Tumaga. L. inquired what job is available in Malaysia. Ronnie told her that she will work as a restaurant entertainer. All that is needed is a passport. She will be paid 500

Malaysian ringgits which is equivalent to ₱7,000.00 pesos in Philippine currency. L. told Ronnie that she does not have a passport. Ronnie said that they will look for a passport so she could leave immediately. L. informed him that her younger sister, M. P., has a passport. Ronnie chided her for not telling him immediately. He told L. that she will leave for Malaysia on June 6, 2005 and they will go to Hadja Jarma Lalli who will bring her to Malaysia. Ronnie sent a text message to Lalli but the latter replied that she was not in her house. She was at the city proper.

On June 5, 2005, at about 6:00 o'clock in the evening, Ronnie Aringoy and Rachel Aringoy Cañete arrived on board a tricycle driven by Ronnie at the house where L. was staying at Southcom Village. Ronnie asked if L. already had a passport. L. said that she will borrow her sister's passport. Ronnie, Rachel and L. went to Buenavista where L.'s other sister, C. P., was staying. Her sister M. P. was there at that time. L. asked M. to let her use M.'s passport. M. refused but L. got the passport. M. cried. Ronnie, Rachel and L. proceeded to Tumaga. Ronnie, Rachel and L. went to the house of Hadja Jarma Lalli just two hundred meters away from the house of Ronnie in Tumaga. Ronnie introduced L. to Hadja Jarma, saying "Ji, she is also interested in going to Malaysia." L. handed a passport to Hadja Jarma telling her that it belongs to her sister M. P. Hadja Jarma told her it is not a problem because they have a connection with the DFA (Department of Foreign Affairs) and M.'s picture in the passport will be substituted with L.'s picture. Nestor Relampagos arrived driving an owner-type jeep. Hadja Jarma introduced Nestor to L. as their financier who will accompany them to Malaysia. x x x L. noticed three other women in Hadja Jarma's house. They were Honey, about 20 years old; Michele, 19 years old, and another woman who is about 28 years old. The women said that they are from Ipil, Sibugay Province. Ronnie told L. that she will have many companions going to Malaysia to work. They will leave the next day, June 6, and will meet at the wharf at 2:30 in the afternoon.

On June 6, 2005, L. went to Zamboanga City wharf at 2:00 o'clock in the afternoon bringing a bag containing her make-up and powder. She met at the wharf Hadja Jarma Lalli, Ronnie Aringoy, Honey and Michele. Ronnie gave to L. her boat ticket for the vessel M/V Mary Joy bound for Sandakan, Malaysia; a passport in the name of M. P. but with L.'s picture on it, and ₱1,000.00 in cash. Hadja Jarma, L., Honey, Michele and two other women boarded the boat M/V Mary Joy bound for Sandakan. Ronnie Aringoy did not go with them. He did not board the boat. x x x After the boat sailed, Hadja Jarma Lalli and Nestor Relampagos approached L. and her companions. Nestor told them that they will have a good job in Malaysia as restaurant entertainers. They will serve food to customers. They will not be harmed.

M/V Mary Joy arrived at the port of Sandakan, Malaysia at 10:00 o'clock in the morning of June 7, 2005. After passing through the immigration office, Hadja Jarma Lalli, Nestor Relampagos, L., Honey, Michele and two other women boarded a van for Kota Kinabalu. x x x At the hotel, Nestor Relampagos introduced to L. and her companions a Chinese Malay called "Boss" as their employer. After looking at the women, "Boss" brought L., Honey, Diane and Lorraine to a restaurant near the hotel. Diane and Lorraine were also on board M/V Mary Joy when it left the port of Zamboanga for Sandakan on June 6, 2005. When they were already at the restaurant, a Filipina woman working there said that the place is a prostitution den and the women there are

used as prostitutes. L and her companions went back to the hotel. They told Hadja Jarma and Nestor that they do not like to work as prostitutes. x x x After about five minutes, another person called "boss" arrived. x x x [T]hey were fetched by a van at about 7:00 o'clock in the evening and brought to Pipen Club owned by "Boss Awa", a Malaysian. At the club, they were told that they owe the club 2,000 ringgits each as payment for the amount given by the club to Hadja Jarma Lalli and Nestor Relampagos. They will pay for the said amount by entertaining customers. The customers will pay 300 ringgits for short time services of which 50 ringgits will go to the entertainer, and 500 ringgits for over night service of which 100 ringgits will be given to the entertainer. Pipen Club is a big club in a two-storey building. There were about 100 women working in the club, many of them were Filipina women.

L P was forced to work as entertainer at Pipen Club. She started working at 8:30 in the evening of June 14, 2005. She was given the number 60 which was pinned on her. That night, she had her first customer who selected her among the other women at the club. He was a very big man, about 32 years old, a Chinese-Malay who looked like a wrestler. The man paid for short time service at the counter. L was given by the cashier a small pink paper. She was instructed to keep it. A small yellow paper is given to the entertainer for overnight services. The customer brought L to a hotel. She did not like to go with him but a "boss" at the club told her that she could not do anything. At the hotel, the man poked a gun at L and instructed her to undress. She refused. The man boxed her on the side of her body. She could not bear the pain. The man undressed her and had sexual intercourse with her. He had sexual intercourse with her every fifteen minutes or four times in one hour. When the customer went inside the comfort room, L put on her clothes and left. The customer followed her and wanted to bring her back to the hotel but L refused. At about 1:00 o'clock in the morning of June 15, 2005, L was chosen by another customer, a tall dark man, about 40 years old. The customer paid for an overnight service at the counter and brought L to Mariner Hotel which is far from Pipen Club. At the hotel, the man told L to undress. When she refused, the man brought her to the comfort room and bumped her head on the wall. L felt dizzy. The man opened the shower and said that both of them will take a bath. L's clothes got wet. She was crying. The man undressed her and had sexual intercourse with her. They stayed at the hotel until 11:00 o'clock in the morning of June 15, 2005. The customer used L many times. He had sexual intercourse with her every hour.

L worked at Pipen Club from June 14 to July 8, 2005. Every night, a customer used her. She had at least one customer or more a night, and at most, she had around five customers a night. They all had sexual intercourse with her. On July 9, 2005, L was able to contact by cellphone at about 10:00 o'clock in the morning her sister J P who is staying at Sipangkot Felda x x x. J is married to S A an Indonesian national who is working as a driver in the factory. x x x L told J that she is in Labuan, Malaysia and beg J to save her because she was sold as a prostitute. J told L to wait because her husband will go to Pipen Club to fetch L at 9:00 o'clock that evening of that day. x x x She told J to instruct her husband to ask for No. 60 at Pipen Club. x x x At 9:00 o'clock in the evening, L was told by Daddy Richard, one of the bosses at the club, that a customer requested for No. 60. The man was seated at one of the tables. L approached the man and said, "good evening." The man asked her is she is the sister of J P. L replied that she is, and asked the man if he is the husband of her sister. He said, "yes." The man had already paid at the counter. He stood up and left the place. L got her wallet and followed him. x x x L told her sister about her ordeal. She stayed at her sister's house until July 22, 2005. On July 21, 2005 at 7:00 o'clock in the evening, a policeman

went to her sisters house and asked if there is a woman staying in the house without a passport. Her sister told the policeman that she will send Lolita home on July 22. At dawn on July 22, L [REDACTED] and her brother-in-law took a taxi from Sipangkot Felda to Mananambias where L [REDACTED] will board a speedboat to Sibuto, Tawi-Tawi. x x x

Upon arrival in Zamboanga City on July 24, 2005, L [REDACTED] went directly to the house of her eldest sister A [REDACTED] P [REDACTED] M [REDACTED] at Sta. Catalina, Zamboanga City. She left her things at her sister's house and immediately went to the sister of Ronnie Aringoy in Tumaga. Ronnie was not there. She asked Russel, niece of Ronnie, to call for the latter. Ronnie arrived and said to her, "so you are here, you arrived already." He said he is not involved in what happened to her. L [REDACTED] asked Ronnie to accompany her to the house of Nestor Relampagos because she has something to get from him. Ronnie refused. He told L [REDACTED] not to let them know that she had already arrived from Malaysia.

L [REDACTED] was advised to file a complaint with the police regarding her ordeal in Malaysia. On August 2, 2005, at past 9:00 o'clock in the morning, L [REDACTED] P [REDACTED] went to Zamboanga Police Office at Gov. Lim Avenue to file her complaint. x x x

In her Counter-Affidavit (Exh. "1"; "1-A"-Lalli), Hadja Jarma Lalli admitted that she met L [REDACTED] P [REDACTED] on June 6, 2005 on board M/V Mary Joy while the said vessel was at sea on its way to Sandakan, Malaysia. The meeting was purely coincidental. By coincidence also, Hadja Jarma, Nestor Relampagos and L [REDACTED] P [REDACTED] boarded the same van for Kota Kinabalu, Malaysia. Upon arrival, they parted ways. They did not see each other anymore at Kota Kinabalu, Malaysia. She did not know what happened to them. She went to Kota Kinabalu to visit his son-in-law. She denied having recruited L [REDACTED] P [REDACTED] for employment abroad (Exh. "1"; "1-A"). x x x

In his Counter-Affidavit (Exh. "1"-Aringoy), Ronnie Aringoy affirmed that he personally knows L [REDACTED] P [REDACTED] since she was a teenager and he knows for a fact that her name is Cristine and not Marife "as she purports it to appear." Sometime in the first week of June 2005, L [REDACTED] borrowed P1,000.00 from Ronnie because she wanted to go to Malaysia to work as a guest relation officer (GRO). Ronnie lent her P1,000.00. He told her that he knows "a certain Hadja Jarma Lalli, distant neighbor, who frequents to Malaysia and with whom she can ask pertinent information on job opportunities." The entries in Philippine Passport No. MM401136 issued to Hadja Jarma Lalli on January 29, 2004 (Exh. "2"; "2-A" to "2-Q") showed that she traveled to Malaysia no less than nine (9) times within the period from March 2004 to June 2005.

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Nora Mae Adling, ticketing clerk of Aleson Shipping Lines, owner of the vessel M/V Mary Joy 2 plying Zamboanga City to Sandakan, Malaysia route and of M/V Kristel Jane 3, testified that Hadja Jarma Lalli bought passenger tickets for her travel to Sandakan, not only for herself but also for other women passengers.

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Ronnie Aringoy submitted the Affidavit of his witness Rachel Cañete (Exh. "2") and the Joint Affidavits of witnesses Mercedita Salazar and Estrella Galgan. Rachel Canete declared that L. P. whom she knows as Christine P. worked as a GRO (guest relation officer) and massage attendant at Magic 2 Videoke and Massage Parlor, that L. P. has four children sired by different men; and that she knows for a fact that L. P. has been going to and from Malaysia to work in bars. When she testified in court, Rachel did not present other evidence to substantiate her allegations. M. S. and E. G. declared in their Joint Affidavit that L. P. who is known to them as M. P. was their co-worker as massage attendant and GRO (guest relation officer) at Magic 2 Massage Parlor and Karaoke bar where she used the names C. P. and C. P. She worked in the said establishment for nine months from February to October 2002. She has four children from four different men. No other evidence was submitted in court to prove their assertions.⁴⁻

The Decision of the Trial Court

The Regional Trial Court rendered its Decision on 29 November 2005, with its dispositive portion declaring:

WHEREFORE, the Court finds accused HADJA JARMA LALLI y PURIH and RONNIE ARINGOY y MASION GUILTY beyond reasonable doubt in Criminal Case No. 21908 of the Crime of Trafficking in Persons defined in Section 3(a) and penalized under Section 10(c) in

ing i on 3(a) and pe on 10(c) i relation to Sections 4(a) and 6(c) of Republic Act No. 9208 known as the "Anti-Trafficking in Persons Act of 2003" and in Criminal Case No. 21930 of the crime of Illegal Recruitment defined in Section 6 and penalized under Section 7(b) of Republic Act No. 8042 known as the "Migrant Workers and Overseas Filipinos Act of 1995" and SENTENCES each of said accused:

- 1 In Criminal Case No. 21908, to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of ₱2,000,000.00 pesos;
- 2 In Criminal Case No. 21930, to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of ₱500,000.00 pesos;
- 3 To pay the offended party Lolita Plando y Sagadsad, jointly and severally, the sum of ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages; and
- 4 To pay the costs.

SO ORDERED.

The trial court did not find credible the denials of the accused-appellants over the candid, positive and convincing testimony of complainant L [REDACTED] P [REDACTED] ([REDACTED]). The accused, likewise, tried to prove that L [REDACTED] was a Guest Relations Officer (GRO) in the Philippines with four children fathered by four different men. However, the trial court found these allegations irrelevant and immaterial to the criminal prosecution. These circumstances, even if true, would not exempt or mitigate the criminal liability of the accused. The trial court found that the accused, without a POEA license, conspired in recruiting L [REDACTED] and trafficking her as a prostitute, resulting in crimes committed by a syndicate. The trial court did not pronounce the liability of accused-at-large Nestor Relampagos (Relampagos) because jurisdiction was not acquired over his person.

The Decision of the Court of Appeals

On 26 February 2010, the Court of Appeals affirmed *in toto* the RTC Decision and found accused-appellants guilty beyond reasonable doubt of the crimes of Illegal Recruitment and Trafficking in Persons.

The Issue

The only issue in this case is whether the Court of Appeals committed a reversible error in affirming *in toto* the RTC Decision.

The Ruling of this Court

We dismiss the appeal for lack of merit.

We modify and increase the payment of damages in the crime of Trafficking in Persons from ₱50,000 to ₱500,000 for moral damages and ₱50,000 to ₱100,000 for exemplary damages.

Grounds for Appeal

In his Appeal Brief,⁷ Ronnie Aringoy (Aringoy) admits that he referred L¹⁰ to a certain Hadja Jarma Lalli (Lalli), Aringoy's neighbor who frequents Malaysia and from whom L¹⁰ could ask pertinent information on job opportunities.⁸ Aringoy claims that he learned later that L¹⁰ left for Malaysia.⁹ He denies knowing Relampagos to whom L¹⁰ paid ₱28,000 as placement fee for finding her work in Malaysia.¹⁰

Aringoy presented three witnesses: his niece R¹¹ Aringoy Cañete (Rachel), M¹² S¹³ (M¹²), and E¹⁴ G¹⁵ (E¹⁴). In her testimony, Rachel declared that: (1) L¹⁰ is a GRO and Massage Attendant at Magic 2 Videoke and Massage Parlor; (2) L¹⁰ has four children sired by different men; and (3) L¹⁰ has been travelling to Malaysia to work in bars. M¹² and E¹⁴ on the other hand, declared in their testimonies that L¹⁰ was their co-worker as Massage Attendant and GRO in Magic 2 Massage Parlor and Karaoke Bar from February to October 2002.¹¹

Aringoy assailed the credibility of L¹⁰'s testimony because of inconsistencies with regard to: (1) L¹⁰'s grandfather's status and name; (2) the persons (Ronnie and Rachel) who approached L¹⁰ to talk about the job opportunity in Malaysia; (3) certain statements in L¹⁰'s testimony that were not alleged in her Sworn Statement; (4) payment of placement fee of ₱28,000; and (5) names of the other female recruits who were with L¹⁰ in the boat going to Sandakan and Kota Kinabalu.¹² Aringoy likewise claims that he was never included in the

initial complaint filed by L¹⁴, and L¹⁵'s statements about her meetings with him, Lalli and Relampagos on 3, 4, 5 and 6 June 2005 were not corroborated by any witness.¹⁶

On the other hand, in her Appeal Brief,¹⁷ Lalli claims that she simply met L¹⁸ on 6 June 2005 on board the ship M/V Mary Joy bound for Sandakan, Malaysia.¹⁹ Lalli denies having met L²⁰ prior to their meeting on board M/V Mary Joy.²¹ Lalli claims she was going to Malaysia to visit her daughter and son-in-law who was a Malaysian national.²² Lalli further claims that she only spoke to L²³ aboard the ship for idle conversation to pass away the time.²⁴ In this conversation, she learned that L²⁵ was with a party of girls accompanied by Relampagos, and the latter was bringing them to Malaysia to work as sales ladies.²⁶ Lalli admits that L²⁷, Relampagos and the other girls rode in Lalli's van in Sandakan, driven by a friend of Lalli's son-in-law.²⁸ They all rode together because Relampagos talked to the van driver, requesting if he and his party of girls could board the van and pay their fare when they reach the city proper of Kota Kinabalu.²⁹ Lalli boarded the van with L³⁰, Relampagos and their companions.³¹ Upon reaching her destination, Lalli got off the van, leaving L³², Relampagos and their other companions to continue their journey towards the city proper of Kota Kinabalu.³³ After spending several days in Malaysia with her daughter and son-in-law, Lalli went to Brunei to visit a cousin on 12 June 2005, and headed back to Malaysia on 14 June 2005.³⁴

Lalli assails the credibility of L³⁵ due to inconsistencies in her testimony with regard to: (1) L³⁶ not being in Southcom Village on 5 June 2005 at 6:00 p.m., as she claimed, but in Buenavista Village; and (2) Lolita's claim that Lalli and Relampagos on 12 June 2005 brought the girls to Labuan, when in fact, Lalli was already in Brunei on 12 June 2005, as evidenced by the stamp in her passport.³⁷

Credibility of Testimonies

Both Aringoy and Lalli, in their respective Appeal Briefs, assail the testimony of L³⁸ due to its alleged inconsistency on immaterial facts, such as the status of L³⁹'s grandfather, the name of the village she was in, the date she was brought to Labuan, Malaysia, and the like. In a long line of cases, the Court has ruled that inconsistencies pointed out by the accused in the testimony of prosecution witnesses relating to minor details do not destroy the credibility of witnesses.⁴⁰ On the contrary, they indicate that the witnesses were telling the truth and not previously rehearsed.⁴¹

The clear material inconsistency in this case, however, lies in the testimonies of accused

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Aringoy and Lalli. Aringoy admitted that he referred L [REDACTED] to a certain Hadja Jarma Lalli, his neighbor who frequents Malaysia and with whom L [REDACTED] could ask pertinent information on job opportunities.³² Lalli, on the other hand, denies having met L [REDACTED] prior to their meeting on board M/V Mary Joy on 6 June 2005,³³ and claims that her meeting with L [REDACTED] was purely coincidental.³⁴ Lalli admits that, even if she met Relampagos, L [REDACTED] and their companions only on that day on board M/V Mary Joy, she allowed these people to ride with her in Malaysia using the van driven by the friend of Lalli's son-in-law.³⁵ Lastly, Lalli claims that she often goes to Malaysia to visit her daughter and son-in-law.³⁶ However, this does not explain why Lalli purchased boat tickets, not only for herself, but for the other women passengers going to Malaysia.³⁷ From March 2004 to June 2005, Lalli traveled to Malaysia no less than nine (9) times.³⁸ Nora Mae Adling, ticketing clerk of Aleson Shipping Lines, owner of the vessel M/V Mary Joy 2 plying Zamboanga City to Sandakan, Malaysia route and of M/V Kristel Jane 3, testified in open court that "Hadja Jarma Lalli bought passenger tickets for her travel to Sandakan, not only for herself but also for other women passengers."³⁹ Clearly, it is not L [REDACTED]'s testimony that is materially inconsistent, but the testimonies of Lalli and Aringoy.

Aringoy presented his witnesses Rachel, M [REDACTED] and E [REDACTED] to impeach the credibility of L [REDACTED] by alleging that L [REDACTED] was a Massage Attendant and GRO in a massage parlor and videoke bar. His witness Rachel further declared that L [REDACTED], at the young age of 23 years, already had four children sired by four different men, and had been previously travelling to Malaysia to work in bars. These bare allegations were not supported by any other evidence. Assuming, for the sake of argument, that L [REDACTED] previously worked in a Karaoke Bar and Massage Parlor and that she had four children from different men, such facts cannot constitute exempting or mitigating circumstances to relieve the accused from their criminal liabilities. It does not change the fact that the accused recruited L [REDACTED] to work in Malaysia without the requisite POEA license, thus constituting the crime of illegal recruitment. Worse, the accused deceived her by saying that her work in Malaysia would be as restaurant entertainer, when in fact, L [REDACTED] would be working as a prostitute, thus, constituting the crime of trafficking.

The facts found by the trial court, as affirmed *in toto* by the Court of Appeals, are, as a general rule, conclusive upon this Court, in the absence of any showing of grave abuse of discretion.⁴⁰ The Court, however, may determine the factual milieu of cases or controversies under specific circumstances, such as:

- (1) when the inference made is manifestly mistaken, absurd or impossible;
- (2) when there is a grave abuse of discretion;
- (3) when the finding is grounded entirely on speculation

- (3) when the finding is grounded entirely on speculations, surmises or conjectures;
- (4) when the judgment of the Court of Appeals is based on misapprehension of facts;
- (5) when the findings of fact are conflicting;
- (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) when the findings of the Court of Appeals are contrary to those of the trial court;
- (8) when the findings of fact are conclusions without citation of specific evidence on which they are based;
- (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and
- (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.

In this case, none of these exceptions to the general rule on conclusiveness of facts are applicable. The Court gives weight and respect to the trial court's findings in criminal prosecution because the latter is in a better position to decide the question, having heard the witnesses in person and observed their deportment and manner of testifying during the trial.³⁴ For this reason, the Court adopts the findings of fact of the trial court, as affirmed *in toto* by the Court of Appeals, there being no grave abuse of discretion on the part of the lower courts.

Criminal Case No. 21930 (Illegal Recruitment)

Section 6 of Republic Act No. 8042 (RA 8042) defines illegal recruitment, as follows:

[I]llegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes **referring**, contact services, promising or advertising for employment abroad, **whether for profit or not, when undertaken by a non-licensee or non-holder of authority** contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.

Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

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Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. (Emphasis supplied)

Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, defines "authority" as follows:

"Authority" means a document issued by the Department of Labor authorizing a person or association to engage in recruitment and placement activities as a private recruitment entity.

Section 7 of RA 8042 provides for the penalty of illegal recruitment committed by a syndicate (which constitutes economic sabotage), as follows:

(b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

It is clear that a person or entity engaged in recruitment and placement activities without the requisite authority from the Department of Labor and Employment (DOLE), whether for profit or not, is engaged in illegal recruitment.²³ The Philippine Overseas Employment Administration (POEA), an agency under DOLE created by Executive Order No. 797 to take over the duties of the Overseas Employment Development Board, issues the authority to recruit under the Labor Code. The commission of illegal recruitment by three or more persons conspiring or confederating with one another is deemed committed by a syndicate and constitutes economic sabotage,²⁴ for which the penalty of life imprisonment and a fine of not less than P500,000 but not more than P1,000,000 shall be imposed.²⁵

The penalties in Section 7 of RA 8042 have already been amended by Section 6 of Republic Act No. 10022, and have been increased to a fine of not less than P2,000,000 but not more than P5,000,000. However, since the crime was committed in 2005, we shall apply the penalties in the old law, RA 8042.

penalties in the old law, RA 8042.

In *People v. Gallo*,⁴² the Court enumerated the elements of syndicated illegal recruitment, to wit:

- 1 the offender undertakes either any activity within the meaning of “recruitment and placement” defined under Article 13(b), or any of the prohibited practices enumerated under Art. 34 of the Labor Code;
- 2 he has no valid license or authority required by law to enable one to lawfully engage in recruitment and placement of workers; and
- 3 the illegal recruitment is committed by a group of three (3) or more persons conspiring or confederating with one another.⁴³

Article 13(b) of the Labor Code of the Philippines defines recruitment and placement as “any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and **includes referrals**, contract services, promising or advertising for employment, locally or abroad whether for profit or not, provided, that any person or entity which, in any manner, offers or promises for a fee, employment to two or more persons shall be deemed engaged in recruitment and placement.”

Clearly, given the broad definition of recruitment and placement, even the mere act of referring someone for placement abroad can be considered recruitment. Such act of referral, in connivance with someone without the requisite authority or POEA license, constitutes illegal recruitment. In its simplest terms, illegal recruitment is committed by persons who, without authority from the government, give the impression that they have the power to send workers abroad for employment purposes.⁴⁴

In this case, the trial court, as affirmed by the appellate court, found Lalli, Aringoy and Relampagos to have conspired and confederated with one another to recruit and place L■■■■ for work in Malaysia, without a POEA license. The three elements of syndicated illegal recruitment are present in this case, in particular: (1) the accused have no valid license or authority required by law to enable them to lawfully engage in the recruitment and placement of workers; (2) the accused engaged in this activity of recruitment and placement by actually recruiting, deploying and transporting L■■■■ to Malaysia; and (3) illegal recruitment was committed by three persons (Aringoy, Lalli and Relampagos), conspiring and confederating with one another.

Aringoy claims and admits that he only referred L■■■■ to Lalli for job opportunities to Malaysia. Such act of referring, whether for profit or not, in connivance with someone without

Malaysia. Such act of referring, whether for profit or not, in connivance with someone without a POEA license, is already considered illegal recruitment, given the broad definition of recruitment and placement in the Labor Code.

Lalli, on the other hand, completely denies any involvement in the recruitment and placement of Lolita to Malaysia, and claims she only met Lolita for the first time by coincidence on board the ship M/V Mary Joy. Lalli's denial does not deserve credence because it completely conflicts with the testimony of Aringoy who claims he referred Lolita to Lalli who had knowledge of the job opportunities in Malaysia.

The conflicting testimonies of Lalli and Aringoy on material facts give doubt to the truth and veracity of their stories, and strengthens the credibility of the testimony of Lolita, despite allegations of irrelevant inconsistencies.

No improper motive could be imputed to Lolita to show that she would falsely testify against the accused. The absence of evidence as to an improper motive entitles Lolita's testimony to full faith and credit.⁴⁵⁻

Aringoy claims that no conspiracy existed in illegal recruitment, as he denies even knowing Relampagos, who is currently at-large. Lalli denies any involvement in the illegal recruitment, and claims that she only met Relampagos through Lolita on board the ship M/V Mary Joy on 6 June 2005, and learned that Relampagos was bringing Lolita and their other girl companions to Malaysia to work as sales ladies.

Under Article 8 of the Revised Penal Code, there is conspiracy "when two or more persons come to an agreement concerning the commission of a felony and decide to commit it."

In *People v. Lago*,⁴⁶ the Court discussed conspiracy in this wise:

The elements of conspiracy are the following: (1) two or more persons came to an agreement, (2) the agreement concerned the commission of a felony, and (3) the execution of the felony was decided upon. Proof of the conspiracy need not be based on direct evidence, because it may be inferred from the parties' conduct indicating a common understanding among themselves with respect to the commission of the crime. Neither is it necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or objective to be carried out. The conspiracy may be deduced from the mode or manner in which the crime was perpetrated; it may also be inferred from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest.⁴⁷⁻

In this case, L¹ would not have been able to go to Malaysia if not for the concerted efforts of Aringoy, Lalli and Relampagos. First, it was Aringoy who knew L¹, since Aringoy was a neighbor of L¹'s grandfather. It was Aringoy who referred L¹ to Lalli, a fact clearly admitted by Aringoy. Second, L¹ would not have been able to go to Malaysia if Lalli had not purchased L¹'s boat ticket to Malaysia. This fact can be deduced from the testimony of Nora Mae Adling (Nora), ticketing clerk of Aleson Shipping Lines, owner of the vessel M/V Mary Joy 2 plying Zamboanga City to Sandakan, Malaysia route and of M/V Kristel Jane 3. Nora testified in open court that "Hadja Jarma Lalli bought passenger tickets for her travel to Sandakan, not only for herself but also for other women passengers." Lalli's claim that she only goes to Malaysia to visit her daughter and son-in-law does not explain the fact why she bought the boat tickets of the other women passengers going to Malaysia. In fact, it appears strange that Lalli visited Malaysia nine (9) times in a span of one year and three months (March 2004 to June 2005) just to visit her daughter and son-in-law. In Malaysia, it was Relampagos who introduced L¹ and her companions to a Chinese Malay called "Boss" as their first employer. When L¹ and her companions went back to the hotel to tell Relampagos and Lalli that they did not want to work as prostitutes, Relampagos brought L¹ and the girls on board a van to Sangawan China Labuan, where they stayed in a room for one night. The next day, they were picked up by a van and brought to Pipen Club, where L¹ and her companions worked as prostitutes. To date, accused Relampagos is at large and has not been brought under the jurisdiction of the courts for his crimes.

Flight in criminal law is the evading of the course of justice by voluntarily withdrawing oneself in order to avoid arrest or detention or the institution or continuance of criminal proceedings.⁴⁸ The unexplained flight of an accused person may as a general rule be taken into consideration as evidence having a tendency to establish his guilt.⁴⁹ Clearly, in this case, the flight of accused Relampagos, who is still at-large, shows an indication of guilt in the crimes he has been charged.

It is clear that through the concerted efforts of Aringoy, Lalli and Relampagos, L¹ was recruited and deployed to Malaysia to work as a prostitute. Such conspiracy among Aringoy, Lalli and Relampagos could be deduced from the manner in which the crime was perpetrated – each of the accused played a pivotal role in perpetrating the crime of illegal recruitment, and evinced a joint common purpose and design, concerted action and community of interest.

For these reasons, this Court affirms the CA Decision, affirming the RTC Decision, declaring accused Ronnie Aringoy y Masion and Hadja Jarma Lalli y Purih guilty beyond reasonable doubt of the crime of illegal recruitment committed by a syndicate in Criminal Case No. 21930, with a penalty of life imprisonment and a fine of ₱500,000 imposed on each of the accused.

Criminal Case No. 21908 (Trafficking in Persons)

Section 3(a) of Republic Act No. 9208 (RA 9208), otherwise known as the Anti-Trafficking in Persons Act of 2003, defines Trafficking in Persons, as follows:

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

Section 4 of RA 9208 enumerates the prohibited acts of Trafficking in Persons, one of which is:

(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 of Trafficking in Persons is qualified when committed by a syndicate, as provided in Section 6(c) of RA 9208:

(c) When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another, or as a group.
(2) ~~or committed with some individuals~~ or as a group. Trafficking is deemed committed in large scale if committed against three

Section 10(c) of RA 9208 provides for the penalty of qualified trafficking:

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

The Anti-Trafficking in Persons Act is a new law passed last 26 May 2003, designed to criminalize the act of trafficking in persons for prostitution, sexual exploitation, forced labor and slavery, among others.

In this case, Aringoy claims that he cannot be convicted of the crime of Trafficking in Persons because he was not part of the group that transported L from the Philippines to Malaysia on board the ship M/V Mary Joy. In addition, he presented his niece, Rachel, as witness to testify that L had been travelling to Malaysia to work in bars. On the other hand, Lalli denies any involvement in the recruitment and trafficking of L, claiming she only met L for the first time on board M/V Mary Joy going to Malaysia.

The testimony of Aringoy's niece, Rachel, that L had been travelling to Malaysia to work in bars cannot be given credence. L did not even have a passport to go to Malaysia and had to use her sister's passport when Aringoy, Lalli and Relampagos first recruited her. It is questionable how she could have been travelling to Malaysia previously without a passport, as Rachel claims. Moreover, even if it is true that L had been travelling to Malaysia to work in bars, the crime of Trafficking in Persons can exist even with the victim's consent or knowledge under Section 3(a) of RA 9208.

Trafficking in Persons under Sections 3(a) and 4 of RA 9208 is not only limited to transportation of victims, but also includes the act of recruitment of victims for trafficking. In this case, since it has been sufficiently proven beyond reasonable doubt, as discussed in Criminal Case No. 21930, that all the three accused (Aringoy, Lalli and Relampagos) conspired and confederated with one another to illegally recruit L to become a prostitute in Malaysia, it follows that they are also guilty beyond reasonable doubt of the crime of Qualified Trafficking in Persons committed by a syndicate under RA 9208 because the crime of recruitment for prostitution also constitutes trafficking.

When an act or acts violate two or more different laws and constitute two different offenses, a prosecution under one will not bar a prosecution under the other.⁹⁰ The constitutional right against double jeopardy only applies to risk of punishment twice for the same offense, or for

against double jeopardy only applies to risk of punishment twice for the same offense, or for an act punished by a law and an ordinance.⁵⁴ The prohibition on double jeopardy does not apply to an act or series of acts constituting different offenses.

DAMAGES

L[REDACTED] claimed actual damages of ₱28,000, which she allegedly paid to the accused as placement fee for the work of restaurant entertainer in Malaysia. The trial court did not award this amount to L[REDACTED]. We agree and affirm the trial court's non-award due to L[REDACTED]'s inconsistent statements on the payment of placement fee. In her sworn statement, L[REDACTED] alleged that she paid ₱28,000 as placement fee to Lalli.⁵² On cross-examination, however, she admitted that she never paid ₱28,000 to the accused.⁵³

We, however, modify and increase the payment of damages in the crime of Trafficking in Persons from ₱50,000 to ₱500,000 as moral damages and ₱50,000 to ₱100,000 as exemplary damages.

The Civil Code describes moral damages in Article 2217:

Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

Exemplary damages, on the other hand, are awarded in addition to the payment of moral damages, by way of example or correction for the public good, as stated in the Civil Code:

Art. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

The payment of ₱500,000 as moral damages and ₱100,000 as exemplary damages for the crime of Trafficking in Persons as a Prostitute finds basis in Article 2219 of the Civil Code, which states:

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

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (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 parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

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 Lalli 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.

WHEREFORE, we **AFFIRM** the Decision of the Court of Appeals dated 26 February 2010, affirming the Decision of the Regional Trial Court of Zamboanga City dated 29 November 2005, finding accused Lalli and Aringoy guilty beyond reasonable doubt of the crimes of

2005, finding accused Lalli and Aringoy guilty beyond reasonable doubt of the crimes of Illegal Recruitment and Trafficking in Persons committed by a syndicate, with the following **MODIFICATIONS**:

- 1 In Criminal Case No. 21908, each of the accused is sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of ₱2,000,000;
- 2 In Criminal Case No. 21930, each of the accused is sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of ₱500,000;
- 3 Each of the accused is ordered to pay the offended party L. P. y S. jointly and severally, the sum of ₱500,000 as moral damages, and ₱100,000 as exemplary damages for the crime of Trafficking in Persons; and to pay the costs.

The Court cannot pronounce the liability of accused-at-large Nestor Relampagos as jurisdiction over his person has not been acquired.

SO ORDERED.

ANTONIO T. CARPIO

Associate Justice

WE CONCUR:

ARTURO D. BRION

Associate Justice

MARIA LOURDES P. A. SERENO BIENVENIDO L. REYES

Associate Justice Associate Justice

ESTELA M. PERLAS-BERNABE

Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the

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

ANTONIO T. CARPIO

Associate Justice

Chairperson

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.

RENATO C. CORONA

Chief Justice

1 * Designated Acting Member per Special Order No. 1114 dated 3 October 2011. 1

CA *rollo*, pp. 40-58. 2 Id. at 209-222. 3 Id. at 224-225, 255-256.

4 Id. at 42-53.

Id. at 58. 6 Id. at

53-57. 7 Id. at

167-179. 8 Id. at

171. 9 Id. at 172.

Id. 11 Id. 12 Id.

at 173-174. 13 Id.

at 175. 14 Id. at

64-85.

Id. at 77.

16 Id. 17 Id.

18 Id. at 78.

19 Id.

Id. at 79.

21 Id. 22 Id.

23 Id. 24 Id.

Id. at 80-83. 26 *People v. Martinada*, G.R. Nos. 66401-03, 13 February 1991, 194

SCRA 36, 44. 27 Id. 28 *CA rollo*, p. 171. 29 Id. at 77.

Id. at 78.

31 Id. at 79.

32 Id. at 77.

33 Id. at 52.

34 Id. at 51.

35 Id. at 52.

36 *Cosmos Bottling Corporation v. Nagrama, Jr.*, G.R. No. 164403, 4 March 2008, 547 SCRA 571, 584, citing *The Philippine American Life and General Insurance Co. v. Gramaje*, 484 Phil. 880 (2004). 37 *Reyes v. Court of Appeals (Ninth Division)*, 328 Phil. 171, 180 (1996) citing *Floro v. Llenado*, 314 Phil. 715 (1995). 38 *Supra* note 26 at 41. 39 Section 6, Republic Act No. 8042. 40 Id. 41 Section 7, Republic Act No. 10022. 42 G.R. No. 187730, 29 June 2010, 622 SCRA 439.

43 Id. at 451, citing *People v. Soliven*, 418 Phil. 777 (2001) and *People v. Buli-e*, 452 Phil. 129 (2003). 44 *People v. Lapis*, 439 Phil. 729, 740 (2002). 45 *People v. Bodozo*, G.R. No. 96621, 21 October 1992, 215 SCRA 33, 37, citing *Araneta, Jr. v. Court of Appeals*, G.R. No. L43527, 3 July 1990, 187 SCRA 123. 46 411 Phil. 52 (2001).

47 Id. at 59, citing *People v. Fegidiro*, 392 Phil. 36 (2000) and *People v. Francisco*, 388 Phil. 94 (2000). 48 *United States v. Alegado*, 25 Phil. 510, 511 (1913). 49 Id. 50 *People v. Tac-an*, 261 Phil. 728, 746 (1990). 51 Section 21, Article III, 1987 Philippine Constitution. 52 CA rollo, p. 174. 53 Id.