PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAKE BANAAG A.K.A. LEONARDO BANAAG, JR., ACCUSED-APPELLANT.

Ponente: INTING, S.B., J.

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INTING, S.B., J.:

On appeal is the Decision[1] dated 24 November 2011 of the Regional Trial Court (RTC) of Laoag City, Branch 14, in Criminal Case No. 14242-14 finding accused-appellant Jake Banaag a.k.a. Leonardo Banaag, Jr. guilty beyond reasonable doubt of the crime of simple illegal recruitment.

Accused-appellant was charged in the following Information[2] dated 2 October 2009:

> "That sometime during the period August 12, 2009, in the City of Laoag, Philippines and within the jurisdiction of his (sic) Honorable Court, the above named accused, who does not possess any license or authority to engage in the business of recruitment and placement of workers for overseas employment, did then and there willfully, unlawfully and feloniously engage in the recruitment activities and by making false representations and collecting placement / processing fees in the amount of FOURTEEN THOUSAND FIVE HUNDRED PESOS (P14,500) and in the amount of TWENTY SEVEN THOUSAND PESOS (27,000) for plane ticket from private complainant IGNACIO D. BUTAC of Brgy. Lanao Bangui, Ilocos Norte under the promise of employment to the latter to Dubai, which promise the accused failed to fulfill because he is not authorized to recruit.
>
> CONTRARY TO LAW."[3]

During his arraignment on 6 October 2010, accused-appellant pleaded not guilty to the charge against him.[4] The trial ensued thereafter.

Version of the Prosecution

Private complainant Ignacio Butac (Butac) was a utility worker at Saud Beach Resort in Pagudpud, Ilocos Norte since 2002. He first met appellant in April 2009, when the latter was detailed as a security guard to then Pagudpud Mayor Reynolan Sales and Vice-Mayor Maja Sales. Appellant worked in that capacity until May 2009 (TSN, 19 May 2011, pp. 4-5, 9). The fact of employment of the appellant as a close-in security of the Pagudpud mayor from 13 April 2009 to 05 May 2009 was corroborated by the rebuttal witness Roger Pasion. Pasion, who was likewise employed as security guard at Saud Beach in 2001.[5]

On 12 August 2009, Butac met appellant again at the Canadian Immigration in Laoag City. In the course of their conversation, appellant told Butac he can be recruited to work in Dubai if he paid the placement fee of P14,500.00 and plane fare for P27,000.00. On four separate dates, Butac gave appellant a total amount of P41,500.00. No receipt was issued by appellant. Demand for receipt was not made as Butac trusted and relied on appellant's representations (TSN, 19 May 2011, pp. 5-7, 12-13, 18-19). In fact after receiving Butac's money, appellant informed him that the two of them would go to Manila for the contract-signing and the filing of the necessary documents. The planned trip to Manila did not materialize, however, as the appellant absconded. Appellant did not show up at the bus terminal where he promised to meet the gullible Butac on the supposed day of their

departure for Manila. In vain, Butac looked for appellant at the latter's residence in Bacarra, Ilocos Norte. He also went to the Canadian Immigration. But appellant was nowhere to be found. It was then that Butac went to the National Bureau of Investigation to report what had been done to him.[6]

Version of the Defense

On August 12, 2009, Leonardo Banaag, Jr. was working as a security officer and was manning his security team at Star Mall, Las Piñas City, Metro Manila. He was connected with K-9 Security and Manpower Services from March 15, 2009 until January 6, 2010. Afterwhich, he was assigned by Private Security and Credit Investigation, Inc., at Far Eastern University, Manila. In June 2010, he became a security guard at Puregold, Zapote Branch. He presented his detail orders and his identification cards to prove that he was working as a security guard at the time he was supposed to have recruited the complainant. Likewise, he presented his birth certificate to prove that his name is Leonardo Banaag, Jr. and not Jake Banaag.[7]

On 24 November 2011 the RTC rendered the assailed Decision finding accused-appellant guilty beyond reasonable doubt of the crime of simple illegal recruitment, the dispositive portion of which reads:

> "WHEREFORE, accused Jake Banaag a.k.a. Leonardo Banaag, Jr. is found GUILTY beyond reasonable doubt of simple illegal recruitment and is hereby sentenced to an indeterminate penalty of imprisonment ranging from eight years as minimum to twelve years as maximum. He is also ordered to pay a fine of five hundred thousand pesos (P500,000.00). The accused is further directed to pay the private complainant the sum o P41,500.00. Costs against the accused.
>
> SO ORDERED."[8]

In his Brief, accused-appellant assigned this lone error:[9]

> THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED WHEN HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

Illegal recruitment is committed when two elements concur, namely: (1) the offender has no valid license or authority required by law to enable him to lawfully engage in the recruitment and placement of workers; and (2) he undertakes any activity within the meaning of "recruitment and placement" defined under Article 13(b) of the Labor Code. Recruitment and placement is "any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers; and includes referrals, contact 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."[10]

As to the second element, it must be shown that the accused gave the private complainant the distinct impression that he/she had the power or ability to send the private complainant abroad for work, such that the latter was convinced to part with his/her money in order to be employed. Thus, to be engaged in illegal recruitment, it is plain that there must at least be a promise or an offer of employment from the person posing as a recruiter whether locally or abroad.[11]

In this case, this Court is convinced that these elements were sufficiently proven by the prosecution. First, it is undisputed that accused-appellant did not have any license to engage in recruitment and placement activities. A certification to this effect was issued by the POEA Licensing and Regulation Office on 7 February 2011.[12] Second, accused-appellant engaged in illegal recruitment activities by offering foreign employment to private complainant for a fee. Private complainant testified that accused-appellant promised him employment in Dubai as a cook-helper and in consideration of said promise, the private complainant gave accused-appellant the amounts

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he had demanded.

In addition, the absence of receipts to prove the payments made by private complainant does not negate the guilt of the accused-appellant. According to People v. Pabalan:[13]

> xxx the absence of receipts in a criminal case for illegal recruitment does not warrant the acquittal of the accused and is not fatal to the case of the prosecution. As long as the witnesses had positively shown through their respective testimonies that the accused is the one involved in the prohibited recruitment, he may be convicted of the offense despite the want of receipts.

Consequently, as long as the State established through credible testimonial evidence that the accused had engaged in illegal recruitment, her conviction was justified. That is what we find herein.[14]

Accused-appellant's denial and alibi deserve scant consideration. It has been held time and again that mere denial cannot prevail over the positive testimony of a witness. A mere denial, just like an alibi, is a self-serving negative evidence, which cannot be accorded greater evidentiary weight than the declarations of credible witnesses who testify on affirmative matters. As between a categorical testimony that has the ring of truth on the one hand and a bare denial on the other, the former is generally held to prevail.[15]

WHEREFORE, the appeal is DENIED. The assailed Decision finding accused-appellant guilty of the crime charged is AFFIRMED.

SO ORDERED.

Reyes, Jr., (Chairperson) and Lopez, JJ., concur.

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[1] Rollo, pp. 43-52.

[2] Records, pp. 1-2.

[3] Records, pp. 1-2.

[4] Records, pp. 16-17.

[5] Rollo, p. 65.

[6] Ibid.

[7] Rollo, p. 35.

[8] Rollo, p. 52.

[9] Rollo, p. 35.

[10] People v. Nenita Hu, G.R. No. 182232, 6 October 2008.

[11] Carmen Ritualo v. People, G.R. No. 178337, 25 June 2009.

[12] Records, p. 42.

[13] G.R. Nos. 115350 and 117819-21, 30 September 1996.

[14] People v. Edith Ramos Abat, G.R. No. 168651, 16 March 2011

[15] People v. Nurfrasir Hashim, Et Al., G.R. No. 194255, 13 June 2012.

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