

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SERA MARIE JUANICO Y BALBERONA, ACCUSED-APPELLANT.

Ponente: TIJAM, J.

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TIJAM, J.:

“The proliferation of illegal job recruiters and syndicates preying on innocent people anxious to obtain employment abroad is one of the primary considerations that led to the enactment of The Migrant Workers and Overseas Filipinos Act of 1995. Aimed at affording greater protection to Overseas Filipino Workers (OFWs), it is a significant improvement on existing laws in the recruitment and placement of workers for overseas employment.”[1]

The preceding statement finds application in the instant appeal[2] from the Judgment[3] of the Regional Trial Court of Manila, Branch 7, finding accused-appellant Sera Mae Juanico guilty beyond reasonable doubt of the crime of Illegal Recruitment defined and penalized under Section 6 (m) of Republic Act (R.A.) No. 8042 otherwise known as The Migrant Workers and Overseas Filipinos Act of 1995. Accused-appellant was sentenced to a penalty of imprisonment of 7 years and to pay a fine of P250,000.00 without subsidiary imprisonment in case of insolvency. She was also directed to pay the private complainant Mandy Ramos the amount of P30,000.00 which she had unlawfully collected while committing the act constituting illegal recruitment.

The facts, as culled from the assailed Judgment of the trial court, are as follows:

The case against accused-appellant was initiated originally by Mandy Ramos and other complainants. However, with accused-appellant's incessant proposal to toll the pre-trial to give her the chance to settle the civil aspect of the case, and where none was made, it was only Mandy Ramos who endeavored to assist in the prosecution of the instant case.[4]

The accusatory portion of the Information[5] filed against accused-appellant reads:

“That in (sic) or about and during the period comprised from February 27, 2006 to May 2006, inclusive, in the City of Manila, Philippines, the said accused, representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully, unlawfully and knowingly for a fee, recruit and promise employment/job placement to Angelyn delos Reyes, Hernan B. Alloc, Erwin Escutin, Lorenzo D. Diestro, Irene Tablac, Melda Areola, Mandy H. Ramos, Dennis S. Nicolas and Concepcion Tuguegaya as overseas workers, among others, as waitress, janitor, meat butcher/coffee maker, pizza maker, factory worker, cut and sew in Dubai/ Jeddah/Bahrain, without first having secured the required license or authority from the Department of Labor and Employment and charge or accept directly or indirectly from Angelyn delos Reyes, Hernan B. Alloc, Erwin Escutin, Lorenzo D. Diestro, Irene Tablac, Melda Areola, Mandy H. Ramos, Dennis S. Nicolas and Concepcion Tuguegaya various amounts which are in excess or greater than those specified in the schedule of fees prescribed by the Department of Labor and Employment and without valid reasons and without the fault of the said complainants failed to actually deploy them and failed to reimburse expenses incurred by the said Angelyn delos Reyes, Hernan B. Alloc, Erwin Escutin, Lorenzo D. Diestro, Irene Tablac, Melda Areola, Mandy H. Ramos, Dennis S. Nicolas and Concepcion Tuguegaya in connection with their documentation and processing for purposes of their deployment.

CONTRARY TO LAW.”

Initially, accused-appellant could not be located for the execution of the warrant of arrest issued against her, hence, the case was archived. Upon information from the Jail Warden that accused-appellant was committed to the Manila City Jail on January 3, 2008, the criminal proceedings ensued. Being a non-bailable offense, she remained a detainee at the outset of the proceedings.[6]

When arraigned, accused-appellant entered a plea of not guilty to the charge.[7] After the termination of the pre-trial conference, trial on the merits ensued.

When called to testify, Mandy Ramos recalled his first meeting with accused-appellant sometime in May 2006 at Robinson's Place Manila. A friend introduced him to accused-appellant based on the representation that the latter could recommend him to an agency that deploys workers for employment in Dubai.

Accused-appellant, who represented herself as an employee of a company named “Active Manpower & General Services”, guaranteed Mandy Ramos' deployment as factory worker to Dubai for a promised salary of 300 dirham.

As a consideration for his deployment, Mandy Ramos gave to accused-appellant a total sum of P30,000.00 in installment. The first payment was P9,000.00, which receipt was personally acknowledged by accused-appellant on May 25, 2006 (Exhibit “A”)[8]. The second payment was P20,000.00, which was deposited in Metrobank on June 1, 2006; receipt thereof was acknowledged by accused-appellant in a handwritten note with her signature thereon at the back of the Metrobank deposit slip on June 2, 2006 (Exhibit “B” and “B-1”)[9]. To complete the P30,000.00, Mandy Ramos handed to accused-appellant P1,000.00, the receipt, however, could no longer be found.

Mandy Ramos further testified that he was never deployed to Dubai. When he verified with the POEA, he found out that the accused-appellant was not issued a license to recruit for work abroad. A Certification (Exhibit “C”) to this effect was issued by the POEA.

Thereafter, Mandy Ramos demanded from accused-appellant the return his money. Through his persistence, accused-appellant inevitably wrote and signed a note (Exhibit “D”)[10] stating as follows:

“To Whom It May Concern:

I hereby acknowledge the cancellation of visit visas of the following:

1. Irene Tablac

-

30,000.00

2. Melda Areola

-

60,000.00

3. Dennis Nicolas

-

62,000.00

4. Mandy Ramos

-

30,000.00

That the following will receive the check corresponding to P30,000.00 each as first payment on August 10, 2006 and the remaining balance be paid on August 20, 2006.

That the said check will be redeemed at the x x x of Carmencita Conde on the said date in cash and the check will serve as collateral only.

Very truly yours,

Sera Marie Juanico”

Mandy Ramos further testified that his payment to accused-appellant were never returned. The check (Exhibit “E”)[11] which accused-appellant issued to him in the amount of P5,000.00 was not encashed by the bank due to lack of funds.

In her defense, accused-appellant denied the charge against her. She denied recruiting Mandy Ramos and other complainants and receiving money from them.[12]

Given all the evidence of the prosecution and the defense, the trial court rendered its Judgment finding accused-appellant criminally liable of illegal recruitment. The trial court concluded that the prosecution evidence was strong to prove that it was accused-appellant who gave the distinct impression that she could deploy Mandy Ramos to Dubai. This was precisely a prohibited act amounting to illegal recruitment under the Labor Code, as amended by R.A. No. 8042 or The Migrant Workers and Overseas Filipinos Act of 1995. The trial court observed that the crime of illegal recruitment is malum prohibitum where the criminal intent of the accused is not necessary for conviction.[13] The trial court rejected the accused-appellant's defense.

Aggrieved by the trial court's judgment, accused-appellant filed the instant appeal raising the following errors:

“I.

THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

II.

THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S VERSION AND RELIED HEAVILY ON THE INCONSISTENT TESTIMONIES IOF THE PROSECUTION WITNESSES.”[14]

The appeal has no merit.

Illegal recruitment, as defined under R.A. No. 8042 or The Migrant Workers and Overseas Filipinos Act of 1995, pertains to any recruitment activities, including the prohibited practices enumerated under Article 34 of the Labor Code, to be undertaken by non-licensees or non-holders of authority. The term recruitment and placement refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, including

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.[15]

In *People v. Ocden*[16], the Supreme Court reechoed the rule that, to prove illegal recruitment, it must be shown that appellant gave complainants the distinct impression that he had the power or ability to send complainants abroad for work such that the latter were convinced to part with their money in order to be employed.

It can be deduced from the testimony of Mandy Ramos that accused-appellant gave him an impression that she had the power and ability to send him to Dubai for work through words spoken on their first meeting. On this note, Mandy Ramos' testimony given in the following manner deserves consideration:

FISCAL JOSE R. YAP:

[Q]: Where in particular did you talk to Sera Marie Juanico?

A: In Robinson, sir

x x x

x x x

Q: What did you talk about?

x x x

x x x

A:

Sabi niya tutulungan niya kami na magrekomenda sa amin sa Active Manpower dahil empleyado sya doon.[17]

Q:

What country again, madam witness? [sic]

A:

Dubai, sir.

Q:

And what kind of work were you promised?

A:

Factory worker, sir.

Q:

What salary as factory worker in Dubai was promised you?

A:

300 dirham.

Q:

What else did you talked [sic] about in consideration of your being promised to Dubai?

A:

We gave her money so that we can be deployed in Dubai within one month.

Q:

How much were asked of you?

A:

I gave P30,000.00, sir.

Q: Do you have any proof or receipt?

A: Yes, sir.

x x x

x x x

Q:

By the way, madam witness, [sic] if this Sera Marie Juanico, if you see her again, will you be able to recognize her?

A:

Yes, sir.

Q:

Look around if she is in the Court today?

A:

Andito po siya.[18]

Q: Can you point her out to the Court?

A: Witness pointing to a person who when asked to identify herself, answered “Sera Marie Juanico, ma'am”.[19]

Mandy Ramos' testimony before the trial court was both factual and candid, and he did not harbor any ill motive to testify falsely against accused-appellant. Conversely, accused-appellant failed to show any animosity or ill feeling on the part of Mandy Ramos that could have motivated him to falsely accuse her of illegal recruitment. It would be against human nature and experience for a stranger to accuse another stranger of a crime just to mollify a hurt feelings.[20]

Moreover, Mandy Ramos' testimony, in its entirety, clearly established that accused-appellant promised him work in Dubai and she asked money from him for the processing of his visa. Relying upon accused-appellant's representations, Mandy Ramos parted with his money. These acts present a clear picture of illegal recruitment that The Migrant Workers and Overseas Filipinos Act of 1995 seeks to prevent and penalize, at the same time. The proliferation of illegal job recruiters and syndicates preying on innocent people anxious to obtain employment abroad is one of the primary considerations that led to the enactment of the aforesaid Act.[21]

The fact that accused-appellant recruited Mandy Ramos without the requisite license from the POEA makes her even more liable for illegal recruitment. This conclusion is arrived at after additionally considering the following argument of the Office of the Solicitor General (OSG) on the matter, viz:

“There was no dispute that appellant did not have license to conduct any recruitment and placement activity. During trial, prosecution submitted a duly executed Certification from POEA stating that appellant was not among the licensed recruiters of Active Manpower and General Services, the agency which appellant had claimed to work for (Exhibit “C” for the prosecution).

A POEA certification is a public document issued by a public officer in the performance of an official duty; hence, it is prima facie evidence of the facts therein stated pursuant to Section 23 of Rule 132 of the Rules of Court. Public documents are entitled to a presumption of regularity, consequently, the burden of proof rests upon him who alleges the contrary (People v. Banzales, 336 SCRA 64 [2000]).[22]

x x x

x x x

The totality of the evidence when scrutinized and taken together, leads to no other conclusion than that accused-appellant had engaged in recruiting and promising overseas employment to Mandy Ramos. Hence, she cannot now feign ignorance of the consequences of her unlawful acts.

The trial court correctly accorded full faith and credence to Mandy Ramos' testimony. The well-settled rule is that the credibility of witnesses is best left to the judgment of the trial judge whose findings are generally not disturbed on appeal, absent any showing that substantial errors were committed or that determinative facts were overlooked which, if appreciated, would call for a different conclusion.[23] The trial court has the advantage, not available to the appellate courts, of observing the deportment of witnesses and their manner of testifying during trial.[24] It is in this light that We confer highest respect to such findings and conclusions of the trial court.

However, as regards the trial court's imposition of the penalty against accused-appellant, We deem it proper to

modify the same in view of the Indeterminate Sentence Law. Section 1 thereof provides that when the offense is punished by a law other than the Revised Penal Code, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by law and the minimum shall not be less than the minimum term prescribed by the same.[25] This being considered, accused-appellant, therefore, is meted out with a penalty of imprisonment for the period from 7 years and 1 day, as minimum, to 10 years and 1 day, as maximum.[26]

As regards the trial court's imposition of fine of P250,000.00, the same is sustained.

WHEREFORE, the present appeal is DISMISSED. The assailed Judgment of the RTC of Manila, Branch 7, in Criminal Case No. 07-258112 is AFFIRMED with MODIFICATION, in that accused-appellant is meted out with a penalty of imprisonment for the period from 7 years and 1 day, as minimum, to 10 years and 1 day, as maximum.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the court.

Baltazar-Padilla, P.J., and Reyes-Carpio, A., JJ., concur.

[1] People of the Philippines v. Trinidad, G.R. No. 181244. August 9, 2010. [Emphasis Ours].

[2] See Notice of Appeal, dated June 15, 2011; Record, p. 454.

[3] Penned by Hon. Judge Ma. Theresa Dolores C. Gomez-Estoesta on June 1, 2011; Record, pp. 439-449.

[4] Judgment, p. 10.

[5] Dated February 1, 2007; Record, p. 2.

[6] Judgment, p. 2.

[7] Certificate of Arraignment; Record, p.

[8] Record, p. 154.

[9] Id., p. 155.

[10] Record, p. 156. Emphasis and Underscoring Ours.

[11] Record, p. 157.

[12] Judgment, p. 5.

[13] Judgment, p. 6.

[14] Brief for the Accused-Appellant, p. 3; Rollo, p. 39.

[15] Presidential Decree No. 442, Art. 13, otherwise known as the Labor Code of the Philippines, as amended.

[16] G.R. No. 173198, June 1, 2011.

[17] No English translation in the TSN.

[18] No English translation in the TSN.

[19] TSN, August 27, 2008, pp. 6-9. Bracketed insertions Ours.

[20] *Ritualo v. People of the Philippines*, G.R. No. 178337, June 25, 2009.

[21] *People of the Philippines v. Trinidad*, *supra*.

[22] Brief for the Appellee, pp. 10-11; Rollo, pp. 85-86. Emphasis Ours.

[23] *People of the Philippines v. Trinidad*, G.R. No. 181244, August 9, 2010.

[24] *Id.*

[25] *People v. Bohol*, G.R. No. 171729, July 28, 2008.

[26] Under Sec. 7 (a) of Republic Act No. 8042, simple illegal recruitment is punishable by imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two Hundred Thousand Pesos (P200,000.00) nor more than Five Hundred Thousand Pesos (P500,000.00). See *Ritualo v. People of the Philippines*, *supra*.

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