

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIA C. ULAP, ACCUSED-APPELLANT.

Ponente: CARANDANG, J.

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CARANDANG, J.:

On appeal is the judgment of conviction for two (2) counts of estafa against accused-appellant MARIA C. ULAP in Criminal Case Nos. 1833-C and 1834-C.

Apart from the accusations of large-scale illegal recruitment, which was not proven by the prosecution, accused-appellant was also charged before the Regional Trial Court - Branch 23 of Candon City, Ilocos Sur with three (3) counts of estafa. In the separate but similarly worded Criminal Information for Estafa[1] accused-appellant was accused of fraudulently representing herself as an authorized travel agent capable of securing the necessary documents for private complainants Maria Isabel Ulpindo, Natalia Quodala and Evelyn Encarnacion to travel to Italy and thereby successfully inducing them to deliver to her money in both Philippine and foreign currency in various amounts of Php150,000, Php15,000 and Php30,000, Php1,620, US\$1,000 and US\$4,000. Accused-appellant was charged of not complying with her obligation to send private complainants to Italy and of refusing to return the amount paid to her upon repeated demands made by private complainants.

Upon the filing of charges against her, accused-appellant's Application for Bail was set for reception of evidence on April 30, 2004 at which hearing the prosecution presented as its sole witness private complainant Natalia Quodala. In an Order[2] dated May 20, 2004, the trial court denied accused-appellant's application for bail on the ground that the evidence of guilt was strong.

At the arraignment, accused-appellant pleaded "Not Guilty". Trial ensued with the presentation by the prosecution of witnesses Maria Isabel Ulpindo, Natalia Quodala, Gilbert Encarnacion and Atty. Ferdinand Jose Herrera. The defense, on the other hand, presented the testimony of accused-appellant herself as well as that of a certain Alessandra Lisaoen.

According to the prosecution's evidence, sometime in 1999, private complainant Natalia Quodala and a certain Gene Unciano went to see accused-appellant to seek assistance in going to Italy. Accused-appellant promised that for a fee she could process Natalia's travel by securing for her an airplane ticket and tourist visa for Morocco, which would simply be Natalia's transit point in going to Italy. On January 11, 2000, Natalia paid accused-appellant the initial amount of P150,000.00 followed by another P150,000.00 on January 14, 2000. Accused-appellant converted the latter amount and returned to Natalia \$1,800 to serve as "show money" and later as payment to a certain "Peter" for transportation to Italy from Morocco.

On January 3, 2000, Carmen Rabe, accompanied by Gene Unciano, went to see private complainant Maria Isabel Ulpindo at her house and told her that if she was interested to work in Italy Gene Unciano could refer her to someone who could make the arrangement. The three of them then proceeded to Gelema Travel & Tours, which is accused-appellant's travel agency located in Candon City, Ilocos Sur. Accused-appellant told them that the best way to go to Italy was through Morocco using a tourist visa and that it was easier to land a job in Italy if they had

relatives living there. She asked for P300,000.00 in the processing of the necessary travel papers for which Maria Isabel then paid accused-appellant the initial amount of P150,000.00. On January 5, 2000, Maria Isabel gave another P150,000.00, which accused-appellant converted into dollars supposedly to serve as “show money”. Out of the converted amount, however, accused-appellant only gave Maria Isabel \$1,800 and even instructed her that the amount should be paid to “Peter” for transportation expenses in going to Italy.

On January 15, 2000, Maria Isabel and Natalia left for Morocco with the instruction that a certain “Francis” and “Peter” would facilitate their exit from Morocco and entry to Italy. Upon their arrival at the airport in Morocco, a certain “Zaki” met private complainants and brought them to his residence. There they met “Francis” who demanded the US\$1,800 from each of them to cover the cost of their board and lodging expenses after which they were transferred to a hotel. After three and one half months of spending their meager allowances, hopelessly waiting to be transported from Morocco to Italy, Maria Isabel and Natalia decided to return home to the Philippines. Upon their arrival, private complainants demanded the return of the money they paid to accused-appellant and upon her failure to do so prompted private complainants to file criminal charges of illegal recruitment and estafa against her.

Accused-appellant for her part denied making any false pretenses that she would send private complainants to Italy. She insisted that private complainants had sought her services for purposes merely of travel up to Morocco and denied that she had anything to do with whatever travel arrangements made beyond that point. Accused-appellant further asserted that she could not have committed the alleged misrepresentations since she had no direct transaction with private complainants themselves, having dealt mainly with Gene Unciano and Carmen Rabe. Thus, she adds, if there were any false pretenses at all, the same were made by Geny Unciano and Carmen Rabe, who were the ones who had clearly recruited and promised private complainants work in Italy.

After trial, the Regional Trial Court rendered its Decision[3] dated April 28, 2005, the dispositive portion of which reads as follows:

“WHEREFORE:

- The Court finds the accused, Maria Ulap, “NOT GUILTY” in Criminal Case Nos. 1832-C and 1835-C;

- However, the Court finds the accused, Maria Ulap, “GUILTY” beyond reasonable doubt, as principal, in Criminal Case No. 1833-C for Estafa and she is hereby ordered to suffer an indeterminate sentence of imprisonment from four (4) years and two (2) months of PRISION CORRECCIONAL as minimum to twenty (20) years of RECLUSION TEMPORAL as maximum. Maria Ulap is further ordered to pay to Maria Isabel Ulpindo-Carbonel the amount of P300,000.00 as actual damages and the amount of P50,000.00 as moral damages; and

- Further, the Court finds the accused, Maria Ulap, “GUILTY” beyond reasonable doubt, as principal, in Criminal Case No. 1834-C for Estafa, and she is hereby ordered to suffer the indeterminate sentence of imprisonment from four (4) years and two (2) months of PRISION CORRECCIONAL as minimum to twenty (20) years of RECLUSION TEMPORAL as maximum. Maria Ulap is further ordered to pay to Natalia Quodala the amount of P300,000.00 as actual damages and the amount of P50,000.00 as moral damages.

SO ORDERED.”

Accused-appellant now appeals from her conviction in Criminal Case Nos. 1833-C and 1834-C and imputes grave and reversible error on the part of the trial court in convicting her of the crime of estafa.

The appeal is without merit.

Accused-appellant’s stance that her services had been engaged by private complainants for travel only up to

Morocco and not to Italy must be rejected. Prior to meeting with accused-appellant, private complainants Natalia Quodala and Maria Isabel Ulpindo had already been interested in going to Italy to work as domestic helpers. This much is clear from the evidence presented during trial. Maria Isabel Ulpindo, in fact, had been greatly encouraged by the possibility of going to Italy upon meeting her aunt who was already working there. And, consequently, a referral by Gene Unciano led private complainants to accused-appellant whose services they sought for travel arrangements to Italy. Under the circumstances, credence must be given to private complainants' testimony that the plan to secure airline tickets and travel visas to Morocco instead of Italy originated from accused-appellant herself who had suggested it as an easier transit point to their ultimate destination, which is Italy. Thus, the fact that the airline tickets and travel visas all indicate Morocco as point of destination does not contradict the trial court's finding that accused-appellant had contracted to do more than just send private complainants on a leisurely tour of Morocco. Furthermore, as aptly noted by the trial court, the pre-departure instructions given by accused-appellants to private complainants strongly indicate that what she had undertaken to do was to bring private complainants all the way to Italy and not just to Morocco. In their pre-departure briefing accused-appellant informed private complainants that her contacts "Francis" and "Peter" would meet them in Morocco to bring them across to Italy and that each of them had to pay \$1,800.00 for the service. True to accused-appellant's representations, upon their arrival in Morocco, Natalia Quodala and Maria Isabel Ulpindo were met by accused-appellant's contact named "Francis", who said he would arrange their onward journey to Italy. Thus, as things appeared consistent with accused-appellant's given instructions, private complainants readily turned over to "Francis" \$1,800.00 each in payment for the services of their crossover to Italy. As it turned out, however, private complainants never reached their intended destination as promised to them and were later forced to return penniless.

As to the allegation that accused-appellant could not have made false representations in the absence of a direct transaction with private complainants, the trial court sufficiently addressed the same in this wise:

"x x x While it is true that Maria Isabel Carbonel merely listened to the conversation between the accused, Gene Unciano and Carmen Rabe in the same manner that Natalia Quodala listened to the conversation between Gene Unciano and the accused, the matters that they talked about were discussed in their presence. Considering that they were introduced earlier as applicants for Italy, the information given by the accused on how to go to Italy and the requirements relative thereto, were meant for Natalia Quodala and Maria Isabel Carbonel. The record also shows that after the accused informed them of the requirements so they can travel to Italy, Natalia Quodala and Maria Isabel Carbonel delivered these to the accused." [4]

The trial court found the testimonies of private complainants to be credible and this assessment of testimonial evidence must be accorded great weight. This is because the trial court had the distinct opportunity to observe the demeanor and deportment of witnesses in the course of their testimony under oath and to personally ascertain their reliability.[5] The exception to this rule is when the trial court has overlooked or misapprehended certain facts or circumstances that, if considered, would alter the result of the case.[6]

We find no reason to disturb the trial court's findings and conclusions in the instant case as accused-appellant's conviction for estafa is fully supported by the evidence on record. Accused-appellant gave private complainants the impression that she had the power and ability to send them to Italy where they planned to work as domestic helpers and, in consideration of such false pretenses, they each paid her a total of P300,000.00. Accused-appellant's proposition may have been short of an offer of a definite employment abroad but accused-appellant certainly succeeded in convincing private complainants that she had the ability and influence to send them to Italy by way of Morocco, which deceptive representations persuaded private complainants to part with their money.

Estafa is committed by any person who defrauds another by means of false pretenses or fraudulent acts executed prior or simultaneous with the commission of the fraud, by x x x falsely pretending to possess power, influence, qualifications x x x, or by means of other similar deceits.[7] All the elements of estafa – 1) that accused defrauded another by abuse of confidence or by means of deceit, and 2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third party[8] - are present in the instant case. Indubitably, had it not been for accused-appellant's assurances that for a fee she would be able to send them to Italy through a supposedly convenient alternative route, private complainants would not have paid her the required amount and end up merely in Morocco. Certainly there was deceit on the part on accused-appellant. Deceit refers to a "false representation of a matter of fact, whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives or is intended to deceive another so that he shall act upon it to his legal injury".[9] Accused-appellant's fraudulent representation that she was capable of sending private complainants to Italy in exchange for money makes her liable for estafa.

WHEREFORE, the Decision of the Regional Trial Court – Branch 23, Candon, Ilocos Sur, finding accused-appellant Maria C. Ulap guilty beyond reasonable doubt of the crime estafa and ordering her to pay each of the private complainants Natalia Quodala and Maria Isabel Ulpino P300,000.00 as actual damages and P50,000.00 as moral damages is AFFIRMED.

SO ORDERED.

Dacudao, (Chairman) and Arevalo-Zenarosa, JJ., concur.

[1] Records, pp. 2-3 and 6-7

[2] Records, pp. 54-56

[3] Records, pp. 130-144

[4] RTC Decision, p. 11, Records, p. 140

[5] People vs. Billaber, 421 SCRA 27, 41

[6] People vs. Remullo, 93, 101

[7] Article 315(2)a of the Revised Penal Code

[8] People vs. Remullo, 383 SCRA 93; People vs. Ballesteros, 386 SCRA 193; Sim, Jr. vs. Court of Appeals, 428 SCRA 459; Jose vs. People, 436 SCRA 294; People vs. Lapis, 391 SCRA 131; People vs. Billaber, 421 SCRA 27

[9] Jose vs. People, 436 SCRA 294, 301; Pablo vs. People, 442 SCRA 146

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