

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARICAR LUVINDINO INOVERO, ACCUSED-APPELLANT.

Ponente: BARRIOS, J.

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BARRIOS, J.:

The appellant Maricar Luvindino Inovero (or Inovero for brevity) is now before Us, after having been left holding the proverbial bag by her co-accused Ma. Harleta Briones-Velasco (or Velasco), Marissa P. Nicolas (or Nicolas), and Lyn Arao (or Arao).

They were charged with offenses that usually come in pairs, like a one-two punch, Large Scale Illegal Recruitment or the violation of Section 6(m) penalized under Section 7(b) of R.A. No. 8042 and Estafa or the violation of Article 315, par. 2(a) of the Revised Penal Code, which were initiated by the complainant Eleonora B. Daitol (or Daitol).

Because Velasco, Nicolas and Arao have avoided arrest and remain at-large, only Inovero was arraigned and tried jointly on the indictments of Large Scale Illegal Recruitment which alleged:

That in or about and sometime during the months from March to May 2003, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and all of them mutually helping and aiding one another, did then and there wilfully, unlawfully and feloniously for a fee, recruit and promise employment/job placement abroad for a fee to complainant, ELEONORA B. DAITOL as waiter in Japan and in consideration of said promise collected from complainant the amount of P30,000.00 as processing/placement fees, without first securing the required license/authority from the Philippine Overseas Employment Administration (POEA) or by the Department of Labor and Employment (DOLE) to recruit workers for overseas employment, and by then and there failed to deploy said complainant, and despite demand to reimburse or return the said amount, accused did then and there refuse and fail to reimburse expenses to said complainant, thus, in large scale amounting to economic sabotage.

CONTRARY TO LAW. (Information, p. 2, record)

and Estafa which specified:

That in or about and sometime during the months from March to May 2003, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another, did then and there wilfully, unlawfully and feloniously defraud complainant ELEONORA B. DAITOL in the following manner, to wit: the said accused by means of deceit and false manifestations and fraudulent representations which they made to complainant to the effect that they had the power and capacity to deploy complainant as janitress in Japan, if given the necessary amount to meet the requirements thereof, and by means of other deceit of similar import, induced and succeeded in inducing complainant to give and deliver and, in fact the later gave and delivered to said accused the amount of P30,000.00 on the strength of said manifestations and representations, the accused knowing fully well that the same were false and fraudulent and were made only to obtain, as in fact the accused obtained the amount of P30,000.00, which amount the accused applied and used

for their own personal use and benefit, to the damage and prejudice of said ELEONORA B. DAITOL in the aforesaid amount.

CONTRARY TO LAW. (p. 4, record)

At the end of the day Inovero was found Guilty in the decision which disposed that:

WHEREFORE, premises considered, and finding accused MARICAR LUVINDINO INOVERO guilty beyond reasonable doubt of the crime of SIMPLE ILLEGAL RECRUITMENT in Criminal Case No. 03-3906 in violation of Republic Act No. 8042, said accused is hereby sentenced to an indeterminate penalty of from 6 years as minimum to 12 years as maximum and a fine of P200,000.00.

With respect to Criminal Case No. 03-3907, and finding said accused guilty beyond reasonable doubt of the crime of ESTAFA UNDER ARTICLE 315 PAR 2(A) OF THE REVISED PENAL CODE, said accused is hereby sentenced to suffer an indeterminate penalty of from 2 years and 4 months of prision correccional as minimum to 6 years and 1 day of prision mayor as maximum, with all accessories of law.

The accused is further ordered to pay the amount of P30,000.00 to Eleonora B. Daitol, which is the amount the accused received from complainant which was not returned despite demand.

With costs against accused in both cases.

SO ORDERED. (Decision, p. 143, record)

Inovero appealed this, assigning that the trial court committed these reversible errors:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED DESPITE THE PATENT WEAKNESS OF THE PROSECUTION'S EVIDENCE.

II.

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT. (Appellant's Brief, p. 35, rollo)

The prosecution presented on the stand Johnson Bolivar of the POEA who identified the Certification (Exh. "B") of the said office that per its records, Inovero "in her personal capacity is not licensed by this Administration to recruit workers for overseas employment. Any recruitment activity undertaken by the above-named person is deemed illegal". The other witness was the complainant Daitol, a 28 years old house maid. She was called to prove the allegations that Inovero in connivance and together with the said three (3) other accused, recruited her for a non-existent job abroad, received from her the amount of thirty thousand pesos (P30,000.00) as placement fee, and did these transactions without any authority or license from the Philippine Overseas Employment Administration.

Daitol said that she was recruited to be deployed in Japan as a janitress. It was Arao who brought her to the Harbel International Agency and introduced her to the three other accused who were running the outfit. Nicolas was responsible for receiving the documents of the applicants while Inovero and Velasco were the managers of the agency. To support the allegations that the agency was not authorized to recruit, the said Certification from the POEA was presented and submitted in court.

Insofar as accused Inovero is concerned, the specific relevant testimony of Daitol was as follows:

Q. Could you tell us what was your conversation every time you talked with Maricar Inovero?

A. They make us believe that if ever we were able to pay the processing fee, we will immediately be deployed abroad.

Q. How much Maricar Inovero asked you as processing fee, sir?

A. P30,000.00, sir.

Q. Were you able to pay this P30,000.00?

A. Yes, sir.

Q. Do you have any evidence to show that you paid these amounts?

A. I have sir.

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Q. So, all in all, how much money did you able to give to the agency for your processingfee?

A. P50,000.00, sir.

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Q. What happened after you paid all these fees?

A. When they told us about the date and month we're about to leave and it was postponed, I requested for the withdrawal of my application and the return of my money.

Q. By the way, to whom did you give this amount?

A. To Ms. Rizza.

Q. Only one person? Could you please tell us to whom did you give this amount?

A. To Rizza and Maricar.

Q. Were they the same persons who signed the receipts?

A. Yes, sir. (tsn July 20, 2004, pp. 4-12)

The "Maricar" referred to is of course the appellant Inovero.

The version of the accused runs parallel with that of the prosecution, with variations to suit her defense of denial. She had only one witness, herself. Inovero denied the charges against her, specially her having received the money. Inovero asserted that she was a mere employee of the Harbel International Agency and acted under the direction of her aunt, the accused Velasco. She swore that the signatures appearing in the receipts are not hers, and that she did not receive any money from the complainant as placement fee.

The elements of the crime charged of Large Scale Illegal Recruitment, which the prosecution had to prove, are: (1) the person undertakes any recruitment activity defined under Article 13, paragraph (b), or any prohibited practice enumerated under Article 34 of the Labor Code; (2) said person does not have a license or authority to engage in the recruitment and placement of workers; and (3) the act is committed against three or more persons, individually or as a group (People vs. Alzona, G. R. No. 132029, July 30, 2004). Recruitment and placement are broad and encompassing terms, and refer to 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 (People vs. Navarra, 352 SCRA 84). The acts of Inovero testified to, including her having encouraged and urged Daitol to push on with her application for work abroad, constitute recruitment and placement. And because she admittedly has no license or authority to engage in the said activities, the prosecution was able to prove illegal recruitment. But not the full charge of Large Scale Illegal Recruitment for there is no clear proof that in addition to Daitol there were others too who were successfully victimized.

Instead what was proven is only simple illegal recruitment the essential elements of which are: (1) the offender

undertakes either any activity within the meaning of "recruitment and placement" defined under Art. 13(b), or any of the prohibited practices enumerated under Article 34 of the Labor Code; and (2) he has no valid license or authority required by law to enable one to lawfully engage in recruitment and placement of workers (People vs. Pascua, 366 SCRA 505). These were proven beyond reasonable doubt.

By the same evidence, the charge of Estafa was proven too. The elements of this are: (1) There must be a false pretense, fraudulent act or fraudulent means; (2) Such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (3) The offended party must have relied on the false pretense, fraudulent act or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; (4) As a result thereof, the offended party suffered damage (Sim vs. Court of Appeals, G. R. No. 159280, May 18, 2004). Daitol was parted from her money by fraudulent commitments, but never reached the promised workers paradise. Since then Harbel International Agency has vanished, while Velasco, Nicolas and Arao slinked away. Inovero too did a disappearing act during the trial, but was retaken.

In the face of the accusations against her, Inovero could only interpose the uncorroborated defense of denial and claim that she was a mere liaison officer of the Harbel International Agency. Denial is an inherently weak defense and cannot prevail over the positive and categorical identification (Olivarez vs. Court of Appeals, G. R. No. 163866, July 29, 2005) provided by the complainant. Inovero has not shown that Daitol had any ulterior motive in testifying against her. Human experience tells us that a person, in the absence of a showing of any ill motive, would not impute a grave crime upon another unless the same is true. In the absence of evidence or any indicium that the prosecution's main witness harbored ill will towards petitioner, her testimony must be presumed to be true (Sevalle vs. Court of Appeals, G. R. No.122858, Feb. 28, 2001).

It is a hornbook doctrine that findings of fact of trial courts are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons because the trial court is in a better position to examine the demeanor of the witnesses while testifying (Giambattista vs. Jody King Construction & Development Corp., G. R. No. 141715, Oct. 12, 2005). We find no cause to alter the findings of the trial court which is correct and based on the extant evidence.

WHEREFORE, the appeal is DENIED and the appealed Joint Decision is AFFIRMED.

SO ORDERED.

Guariña, III and Tagle, JJ., concur.

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