

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BALTAZAR DE LEON AND MARIETTA DE LEON @ “BENJIE,” ACCUSED. BALTAZAR DE LEON, ACCUSED-APPELLANT.

G.R. No. 104995. August 26, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This case involves the crime of illegal recruitment. At its bottom are the hapless citizens in search of a better life who still fall victim to the false promise of employment in foreign lands and the inhumanity of illegal recruiters who prey upon the misfortunes of the former and make a mockery of the law.

In an information filed on 28 February 1991 by the Office of the Provincial Prosecutor of Rizal with the Regional Trial Court (RTC) of Pasig, Metro Manila, and assigned to Branch 156[1] thereof, the accused Baltazar de Leon and Marietta de Leon, alias "Benjie," who are husband and wife, were charged with "the crime of Illegal Recruitment under P.D. No. 2018 (Large Scale)" in that:

"x x x on or about the period comprised of the month of August and September, 1990 in the Municipality of Tagig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, representing themselves to have the capacity to contract, enlist and transport Filipino workers [for] employment abroad conspiring and confederating together and mutually helping and aiding with one another, did then and there willfully, unlawfully and feloniously, for a fee recruit and promise employment/job placement abroad [to] the following persons to wit:

Francisco Beo - P6,380.00

Lourdes Raya Bernabe - P6,700.00

Cesar Cortez - P4,505.00

Eugenia Panganiban Cruz - P6,380.00

Alfredo Gutierrez - P4,505.00

Daniel Perez - P6,380.00

Lourdes Perez - P3,000.00

without first securing the required license or authority from the Department of Labor and Employment, by falsely representing to the said persons that they were in a position to obtain overseas jobs from them and in violation of the aforementioned law against Illegal Recruitment committed in large scale and amounting to economic sabotage.

CONTRARY TO LAW."[2]

Only Baltazar de Leon was arrested. Marietta de Leon remains at large up to the present. The former entered a

plea of not guilty at his arraignment on 2 April 1991[3] and the trial on the merits proceeded with respect to him.

In its decision promulgated on 7 April 1992, the trial court[4] found Baltazar de Leon guilty as charged and decreed as follows:

"WHEREFORE, premises considered, the Court finds the accused BALTAZAR DE LEON guilty beyond reasonable doubt of the crime of Illegal Recruitment (in Large Scale) constituting economic sabotage and hereby sentences said accused BALTAZAR DE LEON to suffer the penalty of life imprisonment, to pay a fine of ONE HUNDRED THOUSAND PESOS (P100,000.00), to reimburse the complainant?victims, namely: Francisco Beo through Flordeliza Beo in the amount of P6,380.00; Lourdes Raya-Bernabe in the amount of P6,700.00; Cesar Cortez in the amount of P3,505.00; Eugenia Panganiban-Cruz in the amount of P6,380.00; Alfredo Gutierrez in the amount of P3,500.00; Daniel and Lourdes Perez in the amount of P5,000.00 plus P1,380.00 through Noeta Perez and to pay the costs.

In the service of his sentence, the accused shall be credited in full with the period of his preventive imprisonment.

Let alias warrant be issued for the arrest of accused MARIETTA DE LEON alias 'Benjie', the same to be served by the NBI, PNP/CIS and other national police agencies.

SO ORDERED."[5]

The judgment of conviction is based upon the following findings and conclusion of the trial court:

"Clearly accused Baltazar De Leon is neither authorized nor licensed to recruit workers for overseas jobs and yet he and his wife recruited workers, talked to the applicants and collected fees for requirements that each applicant had to comply with in order that their applications may be processed. Although Mrs. De Leon was more active in the recruitment, accused Baltazar played an important part as both spouses convincingly played out their roles resulting in the applicants' reposing their trust and belief in them. It is of little surprise that the complaining witnesses conclusively identified accused Baltazar as the man who recruited them or their relatives. Said witnesses even gave in evidence the list of requirements and fees that they were told to pay. Said lists clearly show that a great deal of money was involved and received by the accused. The charade played by both accused show a unity of purpose and unity in execution of their unlawful objective establishing the existence of a conspiracy for which both accused must suffer the same penalty. (People vs. Talla, 181 SCRA 133)."[6]

The summary by the People of the prosecution's evidence concerning the recruitment activities of the appellant is hereby adopted, it being fully supported by the testimonies of the complaining witnesses:

"Camila del Rosario, who was a neighbor of appellant, told Noeta Perez, Eugene Panganiban, Elvira Alonzo, Lourdes Bernabe, and one Ador, all of whom were working for the same employer, that del Rosario's daughter was able to work abroad through the efforts of appellant and his wife (TSN, N. Perez, June 26, 1991, p. 4).

On September 16, 1990, del Rosario, together with Noeta Perez and the latter's sister Lourdes and brother Daniel, went to appellant's house in Pateros, Rizal. Noeta Perez's purpose in going to appellant's house was to apply for overseas jobs for her brother Daniel and sister Lourdes. When del Rosario, Noeta Perez and her brother reached appellant's house, they met appellant and his wife who informed them that they have already sent persons to Micronesia who were hired as chambermaids and roomboys. Noeta Perez then asked her sister and brother to apply, and she gave P1,380.00 to appellant's wife (Id., pp. 5-6).

The following day, September 17, 1990, appellant's wife asked Daniel to go back together with Lourdes to file their application and to undergo medical examination. On the same day, Daniel and Lourdes gave appellant and his wife P2,500.00 for the passport, and, in addition, they paid P5,000.00 to appellant. For helping Daniel and Lourdes get jobs abroad, appellant demanded P6,380.00 from each of the applicants allegedly for the

processing of the papers, medical examination, pictures and passport. Noeta Perez was able to give P3,000.00 to appellant for her-sister Lourdes' application, but she, was unable to give any amount for Daniel's application (Id., pp. 6-9).

Sometime in November, 1990, Noeta Peres received a letter from the National Bureau of Investigation ('NBI') saying that the applications for overseas jobs sent to Micronesia were sent to the NBI because there were no such job orders from Micronesia. Upon getting this information, Noeta, together with her sister Lourdes and brother Daniel, went to the NBI which then confirmed the information. Evidently, Lourdes and Daniel could not have gone to Micronesia since the alleged jobs offered to them by appellant never existed (Id., pp. 9-11).

Cesar Cortez suffered a similar fate as that of Daniel and Lourdes Perez. Cortez came to know appellant through a friend, Alfredo Gutierrez, who applied with appellant for an overseas job in Micronesia. Because his friend applied, Cortez also applied with appellant for a job as roomboy in Micronesia. When Cortez filed his application, appellant immediately required him to give P680.00 for alleged medical fee, which Cortez paid. After paying the medical fee, appellant's wife asked Cortez to pay P175.00 as transportation fee for securing the passport. Then appellant asked P1,000.00 as downpayment for the passport, which amount was paid to and received by appellant's wife. In addition, Cortez paid P1,650.00, which was received by appellant's wife in the presence of appellant, for full payment of the passport. Cortez gave these amounts to appellant or his wife between the second week of August, 1990 and second week of September, 1990. Appellant promised Cortez that he could leave for Micronesia in the month of September, 1990, and when this did not materialize, appellant promised again that Cortez could leave by November, 1990. Cortez, however, was unable to leave for Micronesia for it turned out that appellant had no business partner in Micronesia (TSN, C. Cortez, October 29, 1991, pp. 2-4).

Alfredo Gutierrez, a friend of Cortez, also applied with appellant for the job of driver in Guam. Gutierrez knew appellant because a certain Mila introduced him to appellant who represented that he could send workers abroad. The introduction occurred at appellant's house in the first week of August, 1990. Appellant asked for P680.00 allegedly for medical fee and pictures, which Gutierrez paid. Gutierrez was required to give additional amounts, and the total amount he paid reached P3,500.00. He paid this amount to appellant for the promised job as driver in Guam. Gutierrez, however, was unable to leave for Guam because it turned out that there was no such job order in Guam (TSN, A. Gutierrez, October 21, 1991, pp. 2-4)."[7]

The prosecution further proved through the unrebutted testimony of Elisa Roque, Senior Officer of the Licensure Division of the Philippine Overseas Employment Administration (POEA), that the appellant does not have any license or authority from the POEA to recruit workers for overseas employment.[8]

On the other hand, there is nothing in the appellant's brief testimony except the denial of the separate accusations of the complaining witnesses and the assertion that he does not know anything about the transactions between the complainants and his co-accused as he was always out of his residence at daytime. He declared that he was employed as a driver by Reymar Advertising, which is owned by Mr. Reynaldo Bucsit. He served as such daily from 8:00 a.m. to 5:00 p.m. and oftentimes worked from 6:30 p.m. to midnight as a driver of a passenger jeepney.[9] Mr. Bucsit testified that the appellant was his driver from July 1987 to 22 November 1990 and that the latter worked "[s]ometimes four or five days in a week because he had to rest after driving the whole day." [10]

Immediately after the promulgation of the judgment, Baltazar de Leon (hereinafter referred to as the appellant) filed his notice of appeal[11] and, in his main brief[12] filed on 27 November 1992, raised this sole error allegedly committed by the trial court:

"THE COURT A QUO ERRED IN HOLDING THAT THE GUILT OF ACCUSED BALTAZAR DE LEON FOR THE CRIME CHARGED WAS PROVEN BEYOND REASONABLE DOUBT."

We find no merit in this appeal.

Before proceeding any further, some observations on the information filed are in order.

The information charges the appellant with "the crime of Illegal Recruitment under P.D. No. 2018 (Large Scale)." However, this decree merely further amended Articles 38 and 39 of the Labor Code[13] by making large-scale illegal recruitment, i.e., committed against three or more persons individually or collectively, a crime of economic sabotage and punishable with life imprisonment. More precisely then, the information should have been for the violation of Article 38 in relation to Article 39 of the Labor Code, as amended. Although this error seems to be innocuous since the body of the complaint recites the elements of large-scale illegal recruitment, proof beyond reasonable doubt of which would sustain a conviction under Articles 38 and 39 of the said Code, we, nevertheless, make these observations by way of advice to prosecutors to exercise the greatest care in the preparation of informations.

The pertinent portions of Articles 38 and 39 of the Labor Code, as amended by P.D. No. 2018, read as follows:

"ART. 38. Illegal Recruitment. -- (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment or any law enforcement officer may initiate complaints under this Article.

(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

x x x

"ART. 39. Penalties. -- (a) The penalty of life imprisonment and a fine of One Hundred Thousand Pesos (P100,000) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein:"

x x x

Article 13(b) of the same Code defines recruitment as follows:

"'Recruitment and placement' refers 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: 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."

While among the prohibited practices enumerated in Article 34 of the said Code is:

"(b) To furnish or publish any false notice or information or document in relation to recruitment or employment."

And now to the merits of this appeal.

In support of the assigned error, the appellant contends that: (a) he did not transact business with any one of the complaining witnesses nor did he receive any monetary consideration from them; (b) granting for the sake of argument that his wife was engaged in illegal recruitment, there is no sufficient evidence to prove that he acted in conspiracy with his wife; (c) he had no opportunity to engage in recruitment because he was then employed as a driver by one Reynaldo Bucsit with a work schedule from 8:00 a.m. to 5:00 p.m. and likewise worked as a driver

of a passenger jeepney until midnight or the morning of the following day; and (d) the complaining witnesses implicated him because he is the husband of Marietta de Leon who allegedly recruited them but who is now at large.

Our own reading and evaluation of the testimonies of the complaining witnesses lead to no other conclusion than that the appellant and his wife were co-conspirators in the illegal recruitment business conducted in their residence with each contributing coordinative and cooperative acts to insure the success of an enterprise that provided them with income for their mutual benefit and advantage. The complainants separately came to the appellant's residence on various dates because they were informed by their co-workers that he and his wife were known to be recruiting for employment in Micronesia, Guam and Singapore. In all the occasions when they came to his house, the appellant was always there. Complainant Noeta Perez categorically declared that the appellant and his wife told her and her companions that "they sent people abroad, in Micronesia, hired [sic] there as chambermaid and roomboy" and that she gave the money demanded in connection with the application of her brother and sister to Marietta in the presence of the appellant.[14] Complainant Eugenia Cruz declared that when she and her companions, Elma Conde and Adelaide Cabungkay, were in the house of the appellant filling up the papers in connection with their application for employment abroad, the latter "help [sic] us how to file the papers given to" them and told them that they "would be receiving salary of \$2.15/hour," and that she gave P6,380.00 to Marietta in the presence of the appellant.[15] Complainant Flordeliza Beo testified that when she accompanied her husband to apply for employment, the appellant explained to them the terms of employment and was present when she gave the amount of P6,380.00 to Marietta.[16] Complainant Alfredo Gutierrez was directly introduced to the appellant by Mila and the appellant himself asked from him various sums, amounting to P3,500.00, ostensibly in connection with his application for employment, and personally received it from Alfredo.[17] Complainant Cesar Cortes was also directly introduced to the appellant and paid the various sums demanded from him to Marietta in the presence of the appellant.[18] Complainant Lourdes Bernabe testified that the appellant offered her the job of domestic helper in Singapore, informed her of the requirements for her application, and, together with his wife, received her payment of P2,500.00 purportedly for the processing of her papers.[19]

All these acts of the appellant and his wife conclusively established a common criminal design mutually deliberated upon and accomplished through coordinated moves.

Such acts constitute enlisting, contracting or procuring workers for or promising them overseas employment, which are among the acts of recruitment embraced in Article 13(b) of the Labor Code, as amended. The furnishing of the victims with certain documents which they were required to fill up allegedly in connection with their overseas employment, which actually did not exist, also constitutes the violation of paragraph (b), Article 34 of the same Code. Since the appellant does not have the license or authority to recruit and he committed the said acts against at least three individuals, he is guilty of large-scale illegal recruitment under Article 38, which offense is penalized with life imprisonment and a fine of P100,000.00 in the succeeding Article 39.

We are not persuaded by the appellant's contention that he could not have transacted business with the complainants and participated in the activities of his wife because he was not in his residence during the daytime in view of his employment at Reymar Advertising and his driving of a passenger jeepney after working hours until midnight. He sets up, in effect, the defense of alibi. We have carefully searched for a statement in his testimony in court as to the specific dates he was employed by Reymar Advertising. We found none. Rather, it was his witness, Mr. Reynaldo Bucsit, who attempted to do so by claiming that the appellant was his personal driver from July 1987 to 22 November 1990.[20] We then have a situation where a party who claimed that it was impossible for him to have committed a crime because he was somewhere else at the time of its commission did not even specifically and explicitly testify that the dates when he was allegedly somewhere else coincided with

the dates specified in the information and proven by the evidence as the dates when the crime was committed. This is rather strange and only manifests the weakness of his plea. In any case, the trial court disregarded the testimony of Mr. Bucsit. Settled is the rule that a trial court's finding on the credibility of a witness is entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that the said court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[21] But even if Mr. Bucsit's testimony were to be given full faith, it discloses that it was not at all impossible for the appellant to have met and transacted business with the complainants or to have participated in the business of his wife since he drove for Mr. Bucsit for only four or five days a week. The latter declared:

"Q In a week, how many days did he perform his job?

A Sometimes four or five days in a week because he had to rest after driving the whole day, sir."[22]

Moreover, the 'appellant was positively identified by the complainants'. It is axiomatic that alibi cannot prevail over the positive identification of the accused.[23]

Appellant's final argument that the complainants filed the case against him in order to harass him and compel him "to answer their money claims, after failing to recover from the real culprit,"[24] is nothing but a flimsy excuse which we cannot accept. As previously discussed, the appellant is a co-conspirator in the crime of illegal recruitment, and in conspiracy the act of one is the act of all.[25]

The decision appealed from is therefore fully supported by facts which established the guilt of the appellant beyond reasonable doubt.

We cannot end this case without some parting thoughts to conclude what we had stated at the beginning. Something must be wrong somewhere if, in spite of the stiff penalties for illegal recruitment, some still brazenly take advantage of the misery of others and profit from their misfortunes while many still fall for the false promises of illegal recruiters despite the painful lessons the experiences of others have taught. What is clear to us is that illegal recruiters cannot flout our laws and prey on the hard lot of others if the Government had the will to resolutely enforce the laws against illegal recruitment and to be merciless against the violators. They do not deserve any mercy. Large-scale illegal recruitment is a crime which is not difficult to discover, prosecute and prove, for it cannot be done in absolute secrecy. That there must be an end to illegal recruitment is a matter of public policy for not only must the State protect those who, because of economic difficulties or lack of employment opportunities in the country, seek greener pastures in foreign lands and from whose earnings the State itself benefits, it must also punish to the fullest extent of the law illegal recruiters, especially those engaged in syndicated or large-scale illegal recruitment, who continue to wreak havoc on our economy. It is thus earnestly wished that the Government flex its muscles to eradicate this pernicious evil.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** in toto.

Costs against the appellant.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, Bellosillo, and Quiason, JJ., concur.

[1] Designated as a Special Criminal Court.

[2] Original Records (OR), 1; Rollo, 9.

[3] OR, 14.

[4] Id., 220-228. Per Judge Martin S. Villarama, Jr.

[5] OR, 227-223.**[6] OR, 226.**

[7] Appellee's Brief, 4-8.

[8] TSN, 6 January 1992, 3; see also Exhibit "H."

[9] TSN, 6 March 1992, 3-6.

[10] TSN, 27 January 1992, 3-4.

[11] OR, 232.

[12] Rollo, 43-56.

[13] P.D. No. 442, as amended.

[14] TSN, 26 June 1991, 5-6.

[15] TSN, 19 July 1991, 4-6.

[16] TSN, 23 July 1991, 7-8.

[17] TSN, 21 October 1991, 3-4.

[18] TSN, 29 October 1991, 3-4.

[19] TSN, 29 October 1991, 8-9.

[20] TSN, 27 January 1992, 3.

[21] People vs. Florida, 214 SCRA 227 [1992].

[22] TSN, 27 January 1992, 3-4.

[23] People vs. Mercado, 97 SCRA 232 [1980]; People vs. Clores, 184 SCRA 638 [1990]; People vs. Arceo, 187 SCRA 265 [1990]; People vs. Beringuel, 192 SCRA 561 [1990].

[24] Brief for Appellant, 11; Rollo, 55.

[25] People vs. Alvarez, 201 SCRA 364 [1991]; People vs. Buligon, 205 SCRA 766 [1992]; People vs. Ocinar, 212 SCRA 646 [1992].

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