

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. THELMA REYES AND NICK REYES, ACCUSED, THELMA REYES, ACCUSED-APPELLANT.

G.R. No. 105204. March 09, 1995

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision of the Regional Trial Court of Laguna, Branch 35, the dispositive portion of which reads as follows:

WHEREFORE, the prosecution having established the guilt of the accused Thelma Reyes beyond reasonable doubt of Illegal Recruitment defined and penalized under Article 38, P.D. No. 442 as amended, the Court hereby sentences said accused to suffer a penalty of Reclusion Perpetua and to pay a fine in the amount of P100,000.00 and to indemnify Rosalino Bitang and Fabian Baradas, Mr. de Castro, Lorenzo Blanza and Ramon Mendoza the sum of P45,000.00 and to pay the costs.

Appellant Thelma Reyes was charged together with her husband Nick Reyes, but the latter was at large and so has remained up to now. Consequently, the trial proceeded only with respect to Thelma Reyes in view of her plea of not guilty.

The prosecution's first witness, Rosalino Bitang, testified that sometime in 1985, he and five others (Lorenzo Blanza, Fabian Baradas, Edgardo Garcia, Ramon Mendoza and Dionisio de Castro) went to the house of the appellant in Los Baños, Laguna, to apply for employment abroad; that he gave P5,000 to Nick Reyes as downpayment for the recruitment fees; that Nick Reyes handed the money to his wife Thelma Reyes, and afterward issued a receipt (Exh. A), which reads:

RECEIPT

RECEIVED from MR. RIZALINO BITANG the amount of FIVE THOUSAND (P5,000.00) PESOS, Philippine Currency.

Manila, September 19, 1985.

(SGD.) NICK N. REYES, SR.

Bitang testified that on January 14, 1986, he and his companions paid P34,000.00 more to the spouses through Dionisio de Castro. Of this amount, P8,500.00 was for his (witness Bitang's) placement fee, while the balance was for payment of his companions' fees. As before Nick Reyes received the amount and gave it to his wife, Thelma Reyes, after which he issued a receipt (Exh. B) which reads:

RECEIPT

RECEIVED from MR. DIONISIO DE CASTRO the amount of THIRTY FOUR THOUSAND (P34,000.00)

Pesos, Philippine Currency for the following: Edgardo Garcia, Ramon Mendoza, Lorenzo Blanza, Fabian Barradas, and Rosalino Bitang.

Manila, January 14, 1986.

(SGD) NICHOL REYES SR.

According to complainant, Nick Reyes promised to notify them as soon as they were accepted for employment so that they could leave for abroad, but this promise was not fulfilled. He said that he checked with the Philippine Overseas Employment Administration (POEA) and found out that the spouses were not licensed recruiters. A certification to this effect was issued to him by the POEA. (Exh. C)

The other complainant Fabian Baradas also testified. He stated that he was introduced to Thelma Reyes sometime in September, 1985 at Lemery, Batangas, while the latter was recruiting workers for deployment in Saudi Arabia.

On several occasions between September and December, 1985, he and several others went to appellant's house at Junction, Los Baños, Laguna for overseas employment and were required to submit travel documents, such as passports, birth certificates and NBI clearances and to pay various amounts of money.

On January 9, 1986, he gave P6,000.00 to Nick and Thelma Reyes, through his godfather Dionisio de Castro, for which Nick Reyes issued to him a receipt (Exh. E), reading:

RECEIPT

Received from Mr. Dionisio de Castro the amount of Six Thousand (P6,000.00) Pesos, Philippine Currency.

Manila, January 9, 1986.

(SGD.) NICK N. REYES

On January 14, 1986, he paid the additional amount of P12,000.00 to Reyes through Dionisio de Castro as evidenced by Exh. B. The money was supposed to cover the cost of the processing papers. However, as no job was forthcoming, he went to the POEA to inquire, and, like Rozalino Bitang, he learned that the spouses were not licensed recruiters.

The complainants both testified that as soon as they obtained the POEA certification that appellant and her husband were not licensed to recruit, they demanded from the spouses the return of their money and when the latter did not give back their money, they filed the complaint in this case.

Only the appellant Thelma Reyes testified in her behalf. She claimed that she met the witnesses Bitang and Baradas only when they were looking for her husband at their house in Los Baños, Laguna, between March and May of 1986. She denied having met them before.

She admitted that the receipts (Exhs. A, B and E) were all written and signed by her husband, but she denied she had anything to do with her husband's activities. She said they had been estranged since March 1986 precisely because she did not approve of her husband's illegal activities. She claimed that she had told her husband that, even though they were poor, they could live on their earning and the monthly support of P10,000.00 which they were receiving from her mother-in-law who lived in the United States.

According to appellant, she and her husband saw each other only occasionally, whenever they visited their children in Los Baños where they were studying because she lived in Singalong, Manila. She presumed that her husband had told complainants to go to the house in Los Baños which they were merely renting for their children and that she was included in the complaint only because her husband could not be located.

On cross-examination she admitted that there were fourteen (14) other cases of Illegal Recruitment filed and/or pending against her and her husband in different courts of Manila and claimed that some of the cases had been dismissed or settled after she had refunded the money of the complainants.

Testifying on rebuttal for the prosecution, Rosalino Bitang stated that it was Thelma Reyes herself who gave the job applicants the address and sketch of their house in Los Baños, Laguna, and that she represented to him that she was negotiating for job placements abroad. Bitang reiterated that money paid to Nick Reyes was given to Thelma Reyes who counted it before Nick Reyes issued receipts.

On the basis of the parties' evidence, the trial court found Thelma Reyes guilty of illegal recruitment and sentenced her as stated in the beginning. Hence this appeal.

Appellant claims that the trial court erred -

- IN FINDING THAT THE PROSECUTION HAS MARSHALLED THE QUANTUM OF EVIDENCE SUFFICIENT TO CONVICT THE ACCUSED OF THE CRIME OF ILLEGAL RECRUITMENT UNDER ARTICLE 38, P.D. NO. 442.
- IN NOT CONSIDERING THE FACT THAT THERE ARE ONLY TWO COMPLAINANTS IN THE INFORMATION FILED ON DECEMBER 11, 1986 AGAINST THE ACCUSED HENCE THEY CANNOT BE PROSECUTED UNDER ARTICLE 38, P.D. NO. 442.
- IN GIVING CREDENCE TO THE VERBAL TESTIMONIES OF PRIVATE COMPLAINANTS RATHER THAN THE DOCUMENTARY EVIDENCE.

We shall now deal with these contentions of appellant.

First. Appellant contends that the testimonies of Bitang and Baradas are insufficient to sustain conviction. She contends that Dionisio de Castro, who allegedly advanced P34,000.00 for the complainants and their companions, should have been presented to corroborate the claim of the claimants.

The contention is without merit. To be sure, an accused can be convicted on the strength of the testimony of a single witness, if such testimony is credible and positive and produces a conviction beyond reasonable doubt. [1] That the witness is also the complainant in a case makes little difference so long as the court is convinced beyond doubt that the witness is telling the truth. For instance, in *Hernandez v. Court of Appeals* [2] this Court held:

Petitioner claims that the decision of the trial court is not supported by the evidence, which is contrary to the findings of the Court of Appeals that said decision is "in accordance with law and the evidence" (Rollo , p. 12). He points out that the appellate court should not have believed the trial court's conclusion that "the sole testimony of the offended party would have sufficed to sustain her assertions" (Rollo , p. 47). He claims that self-serving declarations of a party favorable to himself are not admissible and that none of the alleged witnesses to the transactions were presented.

The common objection known as "self-serving" is not correct because almost all testimonies are self-serving. The proper basis for objection is "hearsay" (Wenke, *Making and Meeting Objections*, 69).

Petitioner fails to take into account the distinction between self-serving statements and testimonies made in court. Self-serving statements are those made by a party out of court advocating his own interest; they do not include a party's testimony as a witness in court (*National Development Co. v. Workmen's Compensation Commission*, 19 SCRA 861 [1967]).

Self-serving statements are inadmissible because the adverse party is not given the opportunity for cross-examination, and their admission would encourage fabrication of testimony. This cannot be said of a

party's testimony in court made under oath, with full opportunity on the part of the opposing party for cross-examination.

It is not true that none of the alleged witnesses to the transactions was presented in court (Rollo , p. 13). Yolanda Dela Rosa, an eye-witness to some of the transactions, testified for the prosecution. Assuming that Dela Rosa was not presented as a witness, the testimony of de Leon sufficed to sustain the conviction of petitioner. The conviction of an accused may be on the basis of the testimony of a single witness (People v. Rumeral, 200 SCRA 194 [1991]). In determining the value and credibility of evidence, witnesses are to be weighed, not counted (People v. Villalobos, 209 SCRA 304 [1992]).

In the case at bar, the trial court gave weight to the testimonies of complainants because,

Except for the denial of accused Thelma Reyes that she has nothing to do with the recruitment of the complaining witnesses as well as the collection of the amount from them, said accused failed to sufficiently overthrow the convincing testimony of the complaining witnesses that accused Thelma Reyes was present and even counted the money evidenced by Exhibit[s] "A" and "B" after her husband hands it to her and that her husband Nick Reyes who issued the receipts to the complainants.

Moreover, when the issue is the credibility of witnesses, appellate courts will in general not disturb the findings of the trial court unless certain facts or circumstances of weight have been overlooked, misunderstood or misapplied which, if considered, might affect the result of the case. This is because the trial court heard the testimony of the witnesses and observed their deportment and manner of testifying during trial. [3]

With respect to the fact that Dionisio de Castro was not presented to testify, it is sufficient to say that there was no necessity for this because there is no question that the amount of P34,000.00 which he had advanced for the complainants and others was received by Nick Reyes.

Second. Appellant contends that the receipts constitute the best evidence to show that only Nick Reyes received the amounts stated therein because only his signature appears on the receipts. That the receipts were signed by Nick Reyes alone only proves that it was to him that the amounts were paid. What, on the other hand, complainants are saying is that appellant is guilty because she and her husband, conspiring together, acted and made them believe that they were licensed recruiters. If so, the acts of the husband were likewise those of her. Indeed, the evidence shows that after receiving the amounts from complainants, Nick Reyes handed the money paid to the appellant and that Nick Reyes issued the receipts in question only after appellant Thelma Reyes had counted it.

Appellant claims that she and her husband separated in 1985 precisely because she did not want to be involved in his illegal activities. This seems to be us to be a convenient way to dissociate herself, but her mere claim is not enough to overcome the evidence of the prosecution. If there was anyone whose testimony needed corroboration it was appellant.

Taking another tack, appellant points out that complainants cannot explain why the purpose for which payment was made is not stated in the receipts nor why the receipts purport to have been issued in "Manila" and not in Los Baños where they said they had made all the payments. She argues that if the illegal recruitment was made in Manila, then the Regional Trial Court of Laguna had no jurisdiction to try the case.

The circumstances pointed out by appellant only underscores the deviousness of appellant and her husband. Complainants have an elementary education only. It is not for them — but for appellant and her husband — to explain these circumstances because it was the latter who made the receipts. It is not far fetched that they made the receipts this way precisely to create doubt as to their real import. It is enough that complainants positively

identified the appellant and her husband as having illegally recruited them and collected money from them. Their testimonies have not been successfully rebutted by the lame denial of appellant.

Third. Appellant contends that in any event the testimonies of the two complainants could not be the basis for a finding of illegal recruitment on a large scale and for imposing the penalty of life imprisonment on her. The Labor Code prescribes the penalty of life imprisonment for illegal recruitment when committed on a “large scale.” Art. 38 (b) of the Code provides:

(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.

And Art. 39 (a) provides:

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.

We agree with this contention.

In this case the information against appellant mentioned only the two complainants Fabian Baradas and Rosalino Bitang as having been illegally recruited by appellant and her husband. The trial Court, however, held appellant guilty of illegal recruitment on a large scale because aside from Baradas and Bitang, appellant and her husband allegedly recruited others, namely, Lorenzo Blanza, Edgardo Garcia, Ramon Mendoza, and Dionisio de Castro.

This is error. To be sure, Blanza and Garcia, according to complainant Baradas were able to obtain overseas employment. On the other hand, with respect to De Castro there is no evidence that he, too, had been illegally recruited by the spouses. What appears in the record is that he advanced the amount of P34,000.00 in behalf of the complainants and the three others. Only two, therefore, had been illegally recruited.

There are, it is said, 14 other cases filed/pending in the courts against the accused for illegal recruitment. These cases cannot be taken into account for the purpose of Art. 38(b). When the Labor Code speaks of illegal recruitment “committed against three (3) or more persons individually or as a group,” it must be understood as referring to the number of complainants in each case who are complainants therein, otherwise, prosecutions for single crimes of illegal recruitment can be cumulated to make out a case of large scale illegal recruitment. In other words, a conviction for large scale illegal recruitment must be based on a finding in each case of illegal recruitment of three or more persons whether individually or as a group.

Moreover, even if Blanza and Garcia had been illegally recruited so as to make the number of persons illegally recruited four and make the crime that of illegal recruitment on a large scale, since this was not alleged in the information and this is the more serious offense which includes that which was charged, the appellant can only be found guilty of the less serious offense charged, pursuant to Rule 120, §4.

Accordingly, appellant must be punished under Art. 39(c) of the Labor Code which provides:

(c) Any person who is neither a licensee nor a holder of authority under this Title found violating any provision thereof or its implementing rules and regulations shall upon conviction thereof, suffer the penalty of imprisonment of not less than four years nor more than eight years or a fine of not less than P20,000 nor more than P100,000 or both such imprisonment and fine, at the discretion of the court.

WHEREFORE, the decision appealed from is SET ASIDE and another one is rendered, finding appellant Thelma Reyes guilty of illegal recruitment on two (2) counts and is hereby sentenced for each crime to suffer imprisonment of 6 years and 1 day to 8 years and pay a fine of P50,000.00; and ordered to indemnify Rosalino Bitang in the amount of P13,500.00 and Fabian Baradas in the amount of P18,000.00 and pay the costs.

SO ORDERED.

Narvasa, (Chairman), Bidin, Regalado, and Puno, JJ., concur

[1] People v. Mendoza, 223 SCRA 108, G.R. No. 97931, (1993).

[2] 228 SCRA 429, 436-7 (1993).

[3] People v. Hangad, 227 SCRA 244 (1993).

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