

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANITA BAUTISTA Y LATOJA, ACCUSED-APPELLANT.

G.R. No. 113547. February 09, 1995

Ponente: PUNO, J.

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PUNO, J.:

Four (4) separate Informations [1] were filed before the Regional Trial Court Manila (Branch XLI) against accused ANITA BAUTISTA y LATOJA, charging her with the crimes of Illegal Recruitment In Large Scale [2] and Estafa. [3]

Upon arraignment on January 29, 1992, accused pleaded NOT GUILTY. [4] The four (4) cases were tried jointly.

After trial, the court a quo, found accused guilty as charged. [5] In the illegal recruitment case, she was meted the penalty of life imprisonment and ordered to pay P100,000.00 as fine. In the estafa cases, she was sentenced from two (2) years, eight (8) months and twenty-one (21) days of prision correccional as minimum, to six (6) years, five (5) months and eleven (11) days of prision mayor as maximum for each count of estafa, and pay each complainant the amount of P40,000.00 as civil indemnity.

Accused, thru counsel, filed her Notice of Appeal, dated March 6, 1992, indicating her desire to elevate her case to this Court. [6] The records of the case were, however, transmitted by the trial court to the Court of Appeals. In its Decision [7] dated November 26, 1993, the appellate court affirmed appellant's conviction. However, it modified the penalty for the three (3) estafa cases. The dispositive portion of the decision of the appellate court states:

"WHEREFORE, in Criminal Case No. 92-102377, the Court finds accused Anita Bautista GUILTY BEYOND REASONABLE DOUBT of the crime of illegal recruitment, described and penalized under Article 13 (b), Article 38 (a) and (b) and Article 39 (a) of the Labor Code, and imposes upon her the penalty of life imprisonment and fine of P100,000.00. xxx.

"Insofar as Criminal Case No. 92-102378, Criminal Case No. 92-102379 and Criminal Case No. 92-102380, the Court renders judgment, finding accused Anita Bautista GUILTY BEYOND REASONABLE DOUBT of the crime of estafa, described and penalized under Article 315 par. 2 (a) of the Revised Penal Code, and sentencing her in each criminal case to the indeterminate penalty of (sic) from FOUR (4) YEARS and TWO (2) MONTHS of prision correccional, as minimum, to NINE (9) YEARS OF prision mayor, as maximum, and to pay each complainants Remigio Fortes, Anastasio Amor and Dominador Costales, the amount of P40,000.00, without subsidiary imprisonment in case of insolvency, with costs. Accordingly, the penalty imposed upon accused by the lower court is MODIFIED.

"IT IS SO ORDERED."

Pursuant to Section 13 of Rule 124, the appellate court elevated to us the records of the case for review. Notice was given to appellant for her to file additional Brief if she so desires. None was filed in her behalf.

The facts are as found by the appellate court:

"Sometime in August 1991, accused Anita Bautista approached Romeo Paguio at the latter's restaurant at 565 Padre Faura St., Manila, and offered job openings abroad. At that time, Paguio had relatives who were interested to work abroad. Accused, who also operated a restaurant nearby at Padre Faura, informed Paguio that she knew somebody who could facilitate immediate employment in Taiwan for Paguio's relatives. Accused Anita Bautista introduced Rosa Abrero to Paguio. Abrero informed him that the applicants could leave for Taiwan within a period of one-month from the payment of placement fees. They informed Paguio that the placement fee was P40,000.00 for each person. Paguio contacted his relatives, complainants Remigio Fortes and Dominador Costales who were his brothers-in-law, and Anastacio Amor, a cousin, who lost no time raising the needed money and gave the same to Paguio. The three were to work as factory workers and were to be paid \$850.00 monthly salary each. Paguio gave Rosa Abrero P20,000.00, which would be used in following up the papers of the complainants; later he gave accused P40,000.00 and P60,000.00 in separate amounts, totaling P100,000.00, as the remaining balance. Abrero and accused Bautista promised Paguio and complainants that the latter could leave for Taiwan before September 25, 1991. As September 25, 1991 approached, accused Bautista informed Paguio and complainants that there was a delay in the latter's departure because their tickets and visas had not yet been released. Accused re-scheduled the complainants' departure to October 10, 1991. Came October 10, 1991, and complainants were still not able to leave. Paguio then required accused Bautista to sign the "Acknowledgment Receipt," dated October 11, 1991, in which accused admitted having received the sum of P100,000.00 from Paguio, representing payment of plane tickets, visas and other travel documents (Exhibit A). Paguio asked accused to return complainants money; accused, however, promised that complainants' could leave for Taiwan before Christmas. From POEA, Paguio secured a certification, dated January 9, 1992, attesting that Annie Bautista and Rosa Abrero are not licensed or authorized to recruit workers for overseas employment (Exhibit B). Complainants Fortes, Amor and Costales, as well as Paguio, gave their written statements at the Office of the Assistant Chief Directorial Staff for Intelligence of the WPDC, complaining about their being victims of illegal recruitment by Rosa Abrero and Annie Bautista (Exhibits C, D, E and F)."

The issue boils down to whether or not reasonable doubt exists to warrant the acquittal of appellant Anita Bautista.

We find none.

The Labor Code defines recruitment and placement as referring 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." [8]

It is settled that the essential elements of the crime of illegal recruitment in large scale are: (1) the accused engages in the recruitment and placement of workers, as defined under Article 13 (b) or in any prohibited activities under Article 34 of the Labor Code; (2) accused has not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of a license or an authority to recruit and deploy workers, either locally or overseas; and (3) accused commits the same against three (3) or more persons, individually or as a group. [9]

For her exculpation, appellant denied she recruited complainants for employment abroad. She claimed Romeo Paguio was the one who approached her and asked for someone who could help his relatives work abroad. She thus introduced Rosa Abrero, a regular customer at her restaurant, to Paguio. In turn, Paguio introduced Abrero to complainants in their subsequent meeting. Further, appellant testified she was present during the recruitment of complainants since their meetings with Abrero were held at her restaurant. Appellant likewise stressed she did not receive the amount of P100,000.00, as stated in the Acknowledgment Receipt, dated October 11, 1991, but merely

acknowledged that said sum was received by Rosa Abrero from Romeo Paguio.

Appellant's defense does not persuade us.

Appellant's active participation in the recruitment process of complainants belies her claim of innocence. Complainants' recruitment was initiated by appellant during her initial meeting with Romeo Paguio. She gave the impression to Romeo Paguio and the complainants that her cohort, Rosa Abrero, could send workers for employment abroad. She introduced Rosa Abrero to Romeo Paguio. Both women assured the departure of complainants to Taiwan within one month from payment of the placement fee of P40,000.00 per person. They even claimed that complainants would work as factory workers for a monthly salary of \$850.00 per person. Moreover, it was appellant who informed Romeo Paguio that complainants' scheduled trip to Taiwan would be on October 10, 1991, instead of the original departure date of September 25, 1991, due to some problems on their visas and travel documents.

Her close association with Rosa Abrero is further strengthened by the Acknowledgment Receipt, dated October 11, 1991, which was prepared by Romeo Paguio for the protection of complainants. The receipt reads:

"ACKNOWLEDGMENT RECEIPT

P100,000.00 October 11, 1991

RECEIVED FROM: ROMEO PAGUIO, the amount of ONE HUNDRED THOUSAND (P100,000.00) PESOS, Philippine Currency, representing the payment (of) plane ticket, visa and other travel documents.

CONFORME:

By:

(Sgd.) ROMEO PAGUIO

(Sgd.) MRS. ANNIE BAUTISTA

c/o Rosa Abrero

SIGNED IN THE PRESENCE OF:

(Sgd.) Anastacio Amor
Dominator Costales"

Remigio Fortes

Said receipt shows that appellant collected the P100,000.00 for and in behalf of Rosa Abrero, and bolsters Romeo Paguio's allegation that he gave P20,000.00 to Rosa Abrero, while the rest was received by appellant. Notably, in its Decision, dated February 14, 1992, the trial court observed:

"The denial(s) made by the accused of any participation in the recruitment of the complainants do not persuade. The evidence at hand shows that she acknowledged in writing the receipt of P100,000.00 from

witness Romeo Paguio who was all along representing the complainants in securing employment for them in Taiwan. Her denial of having actually received the money in the sum of P100,000.00, the receipt of which she voluntarily signed is not convincing. By her own admission, she is a restaurant operator. In other words, she is a business woman. As such, she ought to know the consequences in signing any receipt. That she signed Exh. "A" only goes to show that fact, as claimed by Romeo Paguio, that she actually received the same."

It is uncontroverted that appellant and Rosa Abrero are not authorized or licensed to engage in recruitment activities. [10] Despite the absence of such license or authority, appellant participated in the recruitment of complainants. Since there are at least three (3) victims in this case, appellant is correctly held criminally liable for illegal recruitment in large scale. [11]

We shall now discuss appellant's culpability under the Revised Penal Code, specifically Article 315 thereof, inasmuch as her conviction for offenses under the Labor Code does not avert punishment for offenses punishable by other laws. [12]

The elements of estafa are as follows: (1) that the accused defrauded another (a) by abuse of confidence, or (b) by means of deceit; and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third party.

In the case at bench, it is crystal clear that complainants were deceived by appellant and Rosa Abrero into believing that there are, indeed, jobs waiting for them in Taiwan. The assurances given by these two (2) women made complainants part with whatever resources they have, in exchange for what they thought was a promising job abroad. Thus, they sold their carabaos, mortgaged or sold their parcels of land and even contracted loans to raise the much needed money, the P40,000.00 placement fee, required of them by accused and Rosa Abrero.

The penalty for estafa depends on the amount defrauded. Article 315 of the Revised Penal Code provides: "the penalty of prision correccional in its maximum period to prision mayor in its minimum period (or imprisonment ranging from 4 years, 2 months and 1 day to 8 years), if the amount of the fraud is over P12,000.00 but does not exceed P22,000.00 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period (6 years, 8 months and 21 days to 8 years), adding one year for each additional P10,000.00 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such case, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be."

The amount defrauded in each estafa case (Criminal Case Nos. 92-102378, 92-102379 and 92-102380) is P40,000.00. As prescribed by Article 315, supra, the penalty should be imposed in the maximum period (6 years, 8 months and 21 days to 8 years) plus one (1) year, there being only one (1) P10,000.00 in excess of P22,000.00. Applying the Indeterminate Sentence Law, the maximum penalty should be taken from the aforesaid maximum period, while the minimum term of the indeterminate penalty shall be within the range of the penalty next lower in degree, that is— prision correccional in its minimum and medium periods which has a duration of 6 months, 1 day to 4 years and 2 months.

Considering the foregoing, the appellate court correctly imposed the indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to nine (9) years of prision mayor, as maximum.

WHEREFORE, premises considered, the decision of the Court of Appeals, finding appellant ANITA BAUTISTA guilty beyond reasonable doubt of the crimes of Illegal Recruitment in Large Scale (Criminal Case Nos. 92-102377) and Estafa (Criminal Case Nos. 92-102378, 92-102379 and 92-102380) is AFFIRMED. No Costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Bidin, Regalado, and Mendoza, JJ., concur.

[1] Rollo, pp. 8-11.

[2] Docketed as Criminal Case No. 92-102377.

[3] Docketed as Criminal Case Nos. 92-102378, 92-102379 and 92-102380.

[4] Original Records, p. 24.

[5] Decision, February 14, 1992; Original Records, p. 50.

[6] Original Records, p. 59.

[7] Penned by Associate Justice Jaime M. Lantin and concurred in by Associate Justices Angelina S. Gutierrez and Bernardo P. Pardo.

[8] Article 13 (b) of the Labor Code, as amended.

[9] People vs. Comia, G.R. No. 109761, September 1, 1994.

[10] Certification, dated January 9, 1992, of the Philippine Overseas Employment Administration (POEA) marked as Exhibit "B"; Original records, p. 33.

[11] See Article 38 of the Labor Code.

[12] People vs. Turda, G.R. No. 97044-46, July 6, 1994, 233 SCRA 702, citing People vs. Alvarez, 45 Phil. 472, 478-479 (1923).

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