

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER SEGUN AND JOSEPHINE CLAM, ACCUSED-APPELLANTS.

G.R. No. 119076. March 25, 2002

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Appellants Roger Segun and Josephine Clam were charged before the Regional Trial Court (RTC) of Iligan City with violating Article 38 of the Labor Code, as amended, in an information reading:

That on or about the 3[rd] day of March, 1993 and for sometime thereafter, at Linamon, Lanao del Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully and feloniously canvass, enlist, contract, transport and recruit for employment the following persons, namely:

- Mario Tambacan;
- Mary Jane Cantil;
- Richard Arañas;
- Victoria Collantes;
- Christine Collantes;
- Rogelio Collantes;
- Luther Caban;
- Loreta Caban;
- Jonard Genemelo;
- Jhonely Genemelo;
- Pedro Ozarraga;
- Pablo Ozarraga; and
- Pacifico Villaver,

Without any license and/or authority to engage in recruitment and placement of workers from the Department of Labor and Employment.[1]

Upon arraignment, appellants pleaded not guilty to the above charges.

The prosecution presented eight (8) witnesses, namely, Francita L. Manequis, Conchita Tambacan, Josephine Aba, Melecio Ababa, Rogelio Collantes, Loreta Caban, Christine Collantes and Elena Arañas.

Manequis, Employment Officer III and Administrative Officer of the Department of Labor and Employment (DOLE), identified two certifications issued by Allan Macaraya, then DOLE Director for Region XII.[2] The first Certification,[3] dated October 7, 1993, stated that “per records available in this Office” appellants were “neither licensed nor authorized by this Department to recruit workers for overseas employment.” The second,[4] dated May 17, 1993, was “issued upon the request of [the] Honorable Mayor of Linamon, Lanao del Norte, Mayor Alejandro C. Alfeche.” It stated that appellants, “per records of this Office,” were “not authorized to conduct recruitment for local and overseas employment.”

Conchita Tambacan, 50, married, a tobacco vendor and a resident of Linamon, Lanao del Norte testified that her son Mario, then 17, was “recruited” by appellants on March 6, 1993 and brought to Manila. She knew that he was recruited only because “many told [her].” Her son did not consult her regarding the recruitment. At the time of her testimony, her son had sent her only two letters from Cabanatuan City but had not returned home to Linamon, Lanao del Norte.

After learning of her son’s recruitment, Mrs. Tambacan went to the Mayor of Linamon who, in turn, verified from DOLE whether appellants had any authority to undertake recruitment. Subsequently, the mayor handed Mrs. Tambacan the certification dated May 17, 1993.[5]

Josephine Ozarraga Aba, 28, married, a housekeeper, and a resident of Linamon, is the aunt of twins Pedro and Pablo Ozarraga. Pedro and Pablo, then 18, are the sons of her deceased sister. Mrs. Aba testified that sometime in March or April 1993 her nephews told her that they wanted to go to Manila and that they were “recruited.” Her nephews were then jobless and were looking for work. Mrs. Aba went to appellants’ house to inquire from appellants, who were her neighbors, if what her nephews told her was true. In appellants’ house, she saw appellants, her nephews, among others. Appellants told her that her nephews would be given free fare to Manila, free meals and good wages. These they also promised her nephews. Mrs. Aba claimed that appellants brought one of the twins to Cabanatuan and the other to Bulacan. When she testified, her nephews had not yet returned to Linamon.[6]

Melecio Ababa, 64, married, a fish vendor, and a resident of Linamon, Lanao del Norte, is the grandfather of Jhonely and Jonard Genemelo. Sometime in April 1992, Ababa learned that appellants had “recruited” his grandsons. Ababa asked his grandsons, “Why will you work there [in Cabanatuan City] [when] in fact you can find jobs here?” Ababa went to the house of appellants who assured him that the transportation to Manila was free, and that his grandsons were to be provided free meals and paid good wages. Because of these promises, he acquiesced to the recruitment. At the time of his testimony, Ababa’s grandsons had not returned to Linamon. All he received from them were two letters but no money.[7]

Another complainant, Rogelio Collantes, 44, jobless and a resident of Linamon, Lanao del Norte, is the husband of Victoria Collantes and the father of Christine, then 13, and Rogelio, Jr., then 6. Sometime in April 1993, Rogelio learned that appellants had “recruited” Victoria, Christine and Roger. Rogelio talked to appellants who promised that his wife and children’s transportation to Manila and meals will be free and that they will receive good wages. Victoria, Christine and Rogelio, Jr., who were then looking for jobs, were then brought to Cabanatuan City.

At the time of his testimony, Rogelio’s children had already returned to Linamon, traveling home with appellant Josephine Clam. Collantes’ wife, though, was still in Nueva Ecija. She had sent letters to Rogelio thrice, and money twice, once in the amount of P1,000.00 and the other time P800.00.[8]

The prosecution also presented Rogelio’s daughter Christine, who was among those allegedly recruited by appellants. Christine said her parents were jobless during the months of March and April 1993 and were looking

for work. Upon the invitation of appellants, she and her mother went to the house of appellants on March 26, 1993. Appellants offered her mother a job. Christine went with her mother to Cabanatuan City where her mother forced her to work. According to Christine, those “recruited” totaled thirteen, including her mother and her brother. She and the others took a boat to Manila and Cabanatuan City. Appellants shouldered the transportation expenses.

In Cabanatuan, Christine did housework for a certain Engr. Sy for seven (7) months. She was paid P500.00 a month. She returned home in Linamon on December 4, 1993. Neri Clam, Josephine’s sister, paid for her fare to Manila.

Like Christine, her mother Victoria also performed housework in Cabanatuan City for a certain Mabini Llanera. Her brother, Rogelio, Jr., was not able to find work because he was still a child.[9]

Loreta Cavan,[*] 14, and also a resident of Linamon, Lanao del Norte, testified that sometime in March 1993, she was “recruited” by appellants and brought to Manila then to Cabanatuan City. She related that she met appellants in the house of Josephine Clam, where she was recruited. Appellants told her that Cabanatuan City was a “good place” “because the salary [was] big.” Loreta agreed to go. Loreta further stated that those “recruited” by the couple totaled thirteen, including the twin brothers Pedro and Pablo, a certain woman named Pasbel, a certain Johnny, and Loreta’s sister Luther.

At Cabanatuan City, Loreta was able to work for a certain Barangay Captain Centioco for three (3) months for P600.00 a month. Loreta purportedly was not paid for her services since her two months’ salary was supposed to pay for her fare to Manila.

Loreta denied that she went to the house of appellants to seek their help. Rather, appellants allegedly offered her a job. Appellants invited her to go to their house on March 27, 1993. Loreta learned from her sister Luther that appellants were recruiting.

Loreta’s sister Luther, who was among those listed in the information as having been recruited by appellants, went to Manila to work but her job was not provided by appellants.[10]

The prosecution also offered the testimony of Ester Cavan, the mother of Loreta Cavan, to corroborate the latter’s testimony. The same was dispensed with, however, the corroborative nature thereof having been admitted by counsel for the defense.[11]

Finally, Elena Arañas, mother of Richard Arañas, related that on March 6, 1993 appellants brought her son, then 19, to Cabanatuan City. Her son, who was then looking for work, was promised that he would be given a good salary. She learned of the promise when she went to appellants’ house where she saw appellants, her son, among others. Elena claimed that she was present when appellants approached her son and offered him work in Cabanatuan City. Elena agreed to the recruitment of her son because of the promise of a good salary. However, she has not heard from her son since he left nor had she received any money from him.[12]

Appellants’ defense was predicated on denial. They presented five witnesses to support their case.

Myrna Sasil, 35, married, a housekeeper and a resident of Iligan City, testified that in March 1993 she went to the appellants’ residence to ask them to find a job in Manila for her daughter Margie. Prior to that, Myrna had known appellants for almost a year. She knew that appellants could help their daughter find work in Manila because they just came from Manila themselves. She said that before she went to appellants’ house, she did not know that appellants were sending people to Manila for work. As Myrna’s family was then suffering from financial difficulties, Josephine agreed to find work for Myrna’s daughter.

According to Myrna, Margie left with the thirteen persons listed in the information as having been recruited by appellants. Appellants paid for Margie's fare to Manila, which she reimbursed from her salary. At the time of Myrna's testimony, Margie was still working in Cabanatuan City and was sending Myrna money from her salary.[13]

Losendo Servano, 50, married, a farmer and a resident of Linamon, Lanao del Norte, is a neighbor of appellants as well as those of the thirteen persons they allegedly recruited. Losendo had known Josephine Clam since she was born, and Roger Segun when the latter and Josephine got married.

Losendo testified that his son Ruel did not have work in Linamon. If Ruel stayed in Linamon, Losendo said he would become a hoodlum or a delinquent. His son thus requested appellants to take him with them to Manila and find work for him, saying "Manang, Manong, I just go with you to Manila."

In April 1993, Ruel, appellants and thirteen others left for Manila by boat. Appellants shouldered Ruel's expenses in going to Manila. When Ruel was able to find work, he paid appellants by installment. Losendo claims that his son found work through the help of appellants.[14]

Virgincita Ozarraga, 30, a housekeeper and a resident of Linamon, Lanao del Norte, is the sister of appellant Josephine Clam. She is also the aunt of the twins Pedro and Pablo Ozarraga and a neighbor of the thirteen persons allegedly recruited by appellants.

According to Virgincita, Josephine Clam went to Nueva Ecija in 1991 but transferred in 1992 to Dagupan City. In both places, Josephine worked as a house helper. Roger Segun, on the other hand, worked as liaison officer for Rolmar Employment Services.

Virgincita disputed Conchita Tambacan's testimony that appellants recruited the latter's son Mario. She said that Mario went to appellants' house. Josephine did not promise him a job because they were not recruiters although appellants assured him they would help him find a job.

Virgincita further testified that in March 1993 Pedro and Pablo Ozarraga also went to the house of Virgincita's mother to ask appellants to help them find work because there were times they could not eat. Josephine allegedly told the twins that she was not a recruiter but she would help them find work. She purportedly said the same thing to Jhonely and Jonard Genemelo, Victoria and Christine Collantes, and Loreta and Luther Cavan. Josephine also told them that she was not promising them anything.

Appellants and the thirteen persons they purportedly recruited left for Manila by boat. Appellants paid for their fare and were able to find work for them in Manila, Cabanatuan and other places in Luzon. Thereafter, appellants returned to Linamon. To Virgincita's knowledge, no people sought their help to find them jobs after the couple returned from Manila.[15]

Appellant Roger Segun, 34, single, is an employee of the Rolmar Employment Services. As the liaison officer of the agency, appellant undertakes the processing of the papers for the agency's license.

According to appellant, around April and May of 1993, the thirteen persons listed in the information went to the house of Josephine Clam to ask her to help them find jobs in Cabanatuan City. Their neighbors knew that Josephine used to work in Cabanatuan City, Pangasinan and Dagupan City. Josephine told them that she was not a recruiter although she would help them find work.

Appellants accompanied the thirteen to Manila as they (appellants) were going there anyway. Appellants shouldered their neighbors' transportation and other expenses from Linamon to Cabanatuan City upon the promise that they (appellants) would be paid back. Eventually, some paid while others did not. Roger did not

bother to ask for payment from those who did not pay. He claimed he was able to help find jobs for their neighbors by recommending them to friends who needed helpers and workers. Until they were able to find jobs, the thirteen stayed in Roger's house in Cabanatuan City.

Roger admitted that neither he nor Josephine Clam had a license to recruit. He said he was not a recruiter. He also revealed that after he brought the thirteen to Manila, he tried to secure a license to recruit but his application was disapproved.[16]

Appellant Josephine Clam, 28, single, and residing at Linamon, Lanao del Norte, used to work as a house helper in Pangasinan and Bulacan for a year after which she returned to Linamon.

Around March and April 1993, the thirteen persons listed in the information went to her house to ask her help to find them work. They knew that Josephine used to work in Pangasinan and Dagupan. She told them she would try her best to help them but informed them that she was not a recruiter.

Roger and Josephine shouldered their neighbors' transportation and food expenses on the condition that their neighbors reimburse appellants once they found jobs. Some of them eventually paid them back although others did not. Appellants were able to find jobs for the thirteen since Roger had many friends.

Josephine admitted that she did not have any license to recruit since she was not a recruiter. She and Roger helped their neighbors find jobs because she took pity on them when they begged her to help them find jobs. She even spent her and Roger's joint savings to answer for her neighbors' expenses.[17]

Based on the foregoing evidence, the Iligan City RTC convicted appellants for violating Article 38 of the Labor Code, as amended:

WHEREFORE, finding the accused guilty beyond reasonable doubt of Illegal Recruitment of the 13 persons mentioned in the information, namely: Mario Tambacan, Mary Jane Cantil, Richard Aranas, Victoria Collantes, Christine Collantes, Rogelio Collantes, Luther Caban, Loreta Caban, Jonard Genemilo, Jhonely Genemilo, Pedro Ozarraga, Pablo Ozarraga and Pacifico Villaver in a large scale, the accused are hereby sentenced to suffer a penalty of life imprisonment for each of them and to pay a fine of P100,000.00 each. The bail bond put up by the accused is hereby ordered cancelled, in view of the penalty imposed by this Court of life imprisonment, which is a nonbailable offense.

SO ORDERED.[18]

Appellants contend that their guilt was not proven beyond reasonable doubt. They maintain that it was their neighbors who approached them in the house of Josephine Clam's mother and solicited their assistance in their (the neighbors') desire to go to Manila. Josephine Clam had a history of employment in Luzon and had just returned to Linamon. In Josephine, the neighbors saw an opportunity to taste economic progress and escape poverty and stagnation. Appellants took pity on them and helped them find jobs, even defraying their neighbors' travel expenses. They submit, therefore, that they were not engaged in the recruitment of persons for employment but in pursuit of a lawful and noble endeavor for the benefit of the less fortunate. They neither collected nor received any consideration for their efforts. Appellants point out that of the 13 allegedly recruited only Christine Collantes and Loreta Cavan testified against them. Considering these circumstances, appellants submit that the evidence against them is at most ambiguous and inconclusive.[19]

The crime of illegal recruitment in large scale is committed when three elements concur. First, the offender has no valid license or authority required by law to enable one to lawfully engage in recruitment and placement of workers. Second, he or she undertakes either any activity within the meaning of "recruitment and placement" defined under Article 13 (b), or any prohibited practices enumerated under Article 34 of the Labor Code. Third,

the offender commits said acts against three or more persons, individually or as a group.[20]

There is no dispute that the first element is present in this case. The certification dated May 17, 1993 and issued by DOLE Region XII Director Allen Macaraya, states that appellants “were not authorized to conduct recruitment for local and overseas employment.” Both appellants conceded they have no license to recruit.[21]

The next question is whether appellants undertook any activity constituting recruitment and placement as defined by Article 13 (b) of the Labor Code, which states:

“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.

Did the prosecution prove beyond a reasonable doubt that appellants canvassed, enlisted, contracted and transported the thirteen persons listed in the information? In examining the prosecution’s evidence, we bear in mind that a conviction for large scale illegal recruitment must be based on a finding in each case of illegal recruitment of three (3) or more persons whether individually or as a group.[22] While the law does not require that at least three (3) victims testify at the trial, it is necessary that there is sufficient evidence proving that the offense was committed against three (3) or more persons.[23]

There is no evidence that appellant undertook the recruitment of Mary Jane Cantil and Pacifico Villaver. Neither Cantil nor Villaver testified in court. No witness testified as to the fact of their recruitment.

As regards Mario Tambacan, his mother Conchita testified that she learned of his recruitment only from other persons. On direct examination she said:

Q

How did you know that he was recruited?

A

Many told me.[24]

On cross-examination, she further revealed:

Q

You claimed that he was recruited but you did not see the recruitment?

A

This Josephine Clam and a companion recruited my son because many saw them.

ATTY. BAYRON:

That is hearsay.

COURT:

Q

But you, yourself, you did not see that he was recruited? Were you present when Mario Tambacan was recruited by the accused?

A

I was not present.

Q

You were only informed?

A

Yes.

Q

Your testimony here that he was recruited was only told to you?

A

Yes.[25]

Conchita Tambacan's testimony is clearly hearsay and, thus, of little probative value.[26] It hardly suffices to prove Mario Tambacan's recruitment beyond reasonable doubt.

We now examine the evidence offered to prove the recruitment of the Collanteses. The prosecution's evidence consists of the testimonies of Rogelio Collantes and his daughter Christine. Rogelio testified that his wife and children were "recruited" by appellants, that appellants promised that his wife and children were to be provided free meals and transportation to Manila and good wages, and that appellants brought his wife and children to Manila.

Q

Do you recall what happen[ed] to Victoria, Cristine and Roger Collantes, Jr., sometime in April, 1993?

A

They were recruited.

Q

By whom?

A

Roger Segun and Josephine Clam.

x x x

Q

When you learn[ed] that your wife Victoria, Cristine your daughter and son Roger Segun, Jr., were being recruited by the accused whom you just identified, what did you do then?

A

I verified about their recruited (sic).

Q

You mean you were to talk to Josephine Clam and Roger Segun?

A

Yes.

Q

Have you talked to Josephine Clam and Roger Segun?

A

Yes.

Q

What did they tell you?

A

They promised that the transportation to Manila will be free and the meals and good wages.

x x x

Q

Were these two accused Roger Segun and Josephine Clam able to bring your wife and children to Manila?

A

Yes.

Q

Do you know what place in Manila they were taken?

A

In Cabanatuan City.[27]

By itself, Rogelio's testimony is far from conclusive that appellants actually recruited his wife and children. Rogelio used the term "recruit" which is a conclusion of law; the prosecution did not elicit from him the specific act constituting the recruitment. Section 36, Rule 130 of the Rules of Court states that a witness can testify only to those facts which he knows of his personal knowledge. He is not permitted to testify as to a conclusion of law. Law in the sense here used embraces whatever conclusions belong properly to the court.[28] Thus, it has been held that the bare statements of a rape victim that she was "sexually assaulted" or "raped" by the accused are not sufficient to establish the accused's guilt for the crime of rape.[29] Testimony constituting conclusions of law has no probative value and is not binding upon the court.[30]

Rogelio also said that appellants made certain promises but it is not clear if these were made to Rogelio or to his wife and children. That appellants "brought" them to Manila does not necessarily mean that they were "transported" in the context of Article 13 (b) for if we subscribe to the defense's account, appellants merely accompanied Rogelio's family to Manila. If two inculpatory facts are capable of two different interpretations, that which would favor the accused should be adopted.[31]

On the other hand, Christine Collantes testified on direct examination:

Q

Do you recall sometime in April, 1993 what transpired between you and these 2 accused in this case?

A

They treated me well.

Q

How did it happen that these 2 accused treated you well sometime in April, 1993?

A

They told us we would be given work.

Q

Where will you be given work?

A

In Cabanatuan City, sir.

Q

In other words how many were you these 2 accused promised to give you work in Cabanatuan City?

A

We were 13.

Q

That includes your mother and your brother Rogelio, Jr.?

A

Yes, sir.

Q

And that includes you also?

A

Yes.

Q

Did you agree to their proposal that you will be given job in Cabanatuan City if you will go there?

A

Yes, sir.

Q

How about your mother?

A

Yes, sir.

Q

How about your brother?

A

My brother went with my mother.

Q

When you agree[d] with your mother, were you able to go in Cabanatuan City together with the accused as they promised?

A

Yes, sir.

Q

That includes the others recruited with the total of 13 of you?

A

Yes, sir.

Q

What means of transportation did you take from here to Manila?

A

William Lines.

Q

Who shoulder[ed] the expenses of that boat in going there from here?

A

Josephine Clam and Roger Segun.

Q

When you arrived in Manila you proceeded to Cabanatuan City, is that correct?

A

Yes.

Q

That includes your mother and your brother?

A

Yes, sir.

Q

As promised by the accused that you would be given a job, were [you] able to have a job there in Cabanatuan City?

A

Yes, sir.

Q

What is your work there?

A

House work.

Q

To whom did you work with?

A

With Engr. Sy.

Q

How much did he agree as your wages?

A

P500.00 a month.

Q

Do you know if your mother was able to secure a job as promised by the accused?

A

Yes.

Q

Was she able to get a job?

A

Yes.

Q

What kind of job?

A

House work.

Q

How about your younger brother, was he able to have a work there?

A

No he is still a child.

COURT

Q

To whom did your mother work?

A

Mabini Llanera in Cabanatuan City.[32]

On cross-examination, she related:

Q

Is it not a fact that your mother went to the house of the accused and beg[ged] you to find a job?

A

Yes, sir.

Q

You also went with your parents when your mother went to the house of the accused?

A

Yes, sir.

Q

The accused did not offer [a] job for your mother?

A

She offered.

Q

You went along with your mother to Cabanatuan City, is that correct?

A

Yes.

Q

Now, will you please tell the court why did you go along with your mother to Cabanatuan City?

A

In order to work.

Q

The accused did not offer you [a] job but you only went along with your mother to Cabanatuan City, is that correct?

A

No.

COURT

Q

What do you mean when you say no?

A

I was forced by my mother to work in Cabanatuan City.[33]

And on re-cross:

ATTY. BAYRON

Q

The accused did not invite you to go to their house on March 26, 1993, am I correct?

A

We were invited.

Q

You and your mother went to the house of the accused because you ask[ed] for help to find a job, am I correct?

FISCAL BALABAGAN

Already answered, Your Honor.

COURT

Answer.

WITNESS

A We were invited.[34]

Christine's testimony establishes beyond a reasonable doubt that appellants recruited Christine's mother Victoria. Christine explicitly stated that appellants offered her mother a job and told them that they "would be given work." Victoria thus agreed to appellants' "proposal" that she would be given a job in Cabanatuan City.

However, there is reasonable doubt whether appellants actually recruited Christine herself since Christine said that she "was forced by [her] mother to work in Cabanatuan City."

The Court also entertains grave doubts regarding the alleged recruitment of Christine's brother Rogelio, Jr., who, according to Christine, went with their mother and was not able to work because, at 6, he was "still a child." Did Rogelio, Jr. go to Cabanatuan City to work or did he just go together with his mother so she could look after him? The former is unlikely while the latter is not farfetched since the child was too young to work and still needed looking after.

The prosecution, however, succeeded in proving that appellants recruited Loreta Cavan. Loreta testified that appellants told her that the salary in Cabanatuan City was good, that she agreed to their proposal for her to work there, and that they brought her to Manila then to Cabanatuan City:

Q

Who brought you to Manila and then Cabanatuan City?

A

Josephine Clam and Roger Segun.

Q

Why did they bring you to Manila then to Cabanatuan City?

A

According to them that place is good because the salary is big.

x x x

Q

You said you were brought to Manila by these two accused on March 27, 1993, before that March 27, was there any occasion that you met the accused in this case?

A

Yes, sir.

Q

Where did you meet them?

A

In Linamon.

Q

In the house of Mrs. Josephine Clam?

A

Yes, sir.

Q

What transpired when you first met with the accused Josephine Clam in their house in Linamon?

A

They told us that in the boat where we are going to take, we are prohibited to go around the boat.

COURT

Q

Prior to that when for the first time you met the accused?

WITNESS

A

At the time when we are recruited.

Q

How did they recruit you?

A

They told me that the salary in that place is good.

FISCAL BALABAGAN

And because they told you that the salary is good, you are referring to Cabanatuan City?

WITNESS

A

Yes.

Q

When they told you that the salary is good, what did you do?

A

I am willing to go.

Q

You mean you agreed with their proposal to you and that you are going to work there?

A

Yes, sir.[35]

On cross-examination, she said that appellants offered her employment and she went to appellants' house because they were recruiting:

ATTY. BAYRON

Q

You said awhile ago that you went to the house of the accused in Linamon, Lanao del Norte, can you recall when was that when you went to the house of the accused in this case?

A

March 27.

Q

Did you go to the house of the accused alone or with companion?

A

I have companions.

Q

Please tell the court why did you go to the house of the accused on March 27, 1993?

A

Because they have recruited us.

Q

Is it not a fact that you went to the house of the accused in Linamon because you sought their help to find a job?

A

No, sir.

Q

The accused in this case did not offer you a job?

A

They offered me.

Q

Is it not a fact that you beg[ged] the accused to help you find a job outside Linamon, Lanao del Norte?

A

No, sir.

Q

The accused in this case did not invite you to go in their house on March 27, 1993?

A

No, sir.

Q

You went there on March 27, 1993 on your own volition, am I correct?

A

Sir, sir.

Q

You are familiar with the house of the accused in Linamon, Lanao del Norte, am I correct?

A

Yes, sir.

Q

In the house of the accused you can not find any signboard that they are recruiting people for jobs, am I correct?

A

No, sir.

COURT

Q

What is your purpose in going to the house of the accused?

A

Because they are recruiting.

Q

Prior to that when you went there, you have not met them before?

A

No, sir.

Q

Why did you go to the house of the accused and knew that they are recruiting?

A

I was told by my sister.

Q

Luther is your elder sister?

A

Yes.[36]

The prosecution however failed to prove that appellants recruited Loreta's sister, Luther. Loreta testified, thus:

Q

How many of you were brought and were recruited by the accused?

A

We were 13.

Q

Can you mention who were your companions?

A

The twin brother, Pedro and Pablo.

x x x

Q

Who else?

A

Luther Caban.

Q

What is your relation with Luther Cavan?

A

She is my sister.

x x x

FISCAL BALABAGAN

Q

You said that you were recruited together with your sister and others and were brought to Cabanatuan City, is that correct?

A

Yes, sir.

Q

Who brought you there?

ATTY. BAYRON

Already answered.

COURT

Witness may answer.

WITNESS

A

Josephine Clam and Roger Segun.[37]

Again, the term “recruit” is a conclusion of law. The prosecution failed to elicit from Loreta how appellants “recruited” Luther. While Loreta also said that Luther was among the thirteen brought to Manila, it does not necessarily mean that her transportation was for purposes of employment. Moreover, Loreta said that Luther’s job, at least at the time Loreta testified, was not a result of appellant’s efforts.

Q

How about your sister Luther, where is she now?

A

She is in Manila.

Q

Why [is] she is still in Manila until now?

A

She went there to work.

Q

Who gave her work, were the accused in this case as promised to you?

A

No, sir.[38]

These circumstances give rise to doubts whether appellants indeed recruited Luther Cavan.

Neither was the prosecution able to establish that appellants recruited the twins Pedro and Pablo Ozarraga. Josephine Ozarraga Aba, the twins' aunt, testified:

Q

Sometime in March or April, 1993, what happen to these two nephews of yours?

A

They were recruited by Josephine Clam and Roger Segun.

xxx

Q

You said that these 2 accused were the ones who recruited your 2 nephews sometime in March or April, 1993. When you learn that they were recruited what did you do if any?

A

I went to their house and confronted them about my nephews and they told me that my nephews will be given free fare to Manila, free meals and good wages and they also promised that to my nephews.

Q

You said they promised your nephews free fare to Manila, free meals and good wages, whom are you referring they?

A

Josephine Clam and Roger Segun.

Q

Why were Josephine Clam and Roger Segun able to recruit your two nephews?

A

Because they brought them.

Q

Where did they brought your nephews?

A

One in Cabanatuan and the other one in Bulacan.[39]

As we held earlier, “recruit” is a legal conclusion. The witness must testify as to the facts that would prove recruitment. It does not suffice that the witness simply state that the accused “recruited” the “victim.” Hence, the testimony of Josephine Aba that appellants “recruited” her nephews is, by itself, insufficient to convict appellants for the recruitment of Pedro and Pablo Ozarraga.

That appellants allegedly told Josephine Aba that her nephews would be given free fare and meals is not inconsistent with appellants’ account that they paid for their neighbors’ expenses. The same holds true for the claim that appellants brought the twins to Cabanatuan and Bulacan. According to appellants, they accompanied the thirteen persons to help them find work. The reference to good wages could mean that the rates of compensation in Cabanatuan or Bulacan are relatively high compared to those in Lanao del Norte. These circumstances do not necessarily mean that appellants recruited Pedro and Pablo Ozarraga.

We cannot give much credence to Josephine’s statement that appellants also promised free fare and meals, and good wages to her nephews since the prosecution did not show that Josephine was present when appellants made this supposed promise to her nephews.

Neither did the prosecution prove beyond reasonable doubt that appellants recruited Jhonely and Jonard Genemelo. Melecio Ababa, grandfather of Jhonely and Jonard testified on direct examination:

Q

Do you recall what happen to your 2 grandsons sometime in the month of April, 1993?

A

They were recruited by Roger Segun and Josephine Clam.

x x x

FISCAL BALABAGAN

Q

When you learn that your grandsons were being recruited by Roger and Segun and Josephine Clam, what did you do?

A

I went to their house.

Q

You said you went to their house, whose house are you referring?

A

The house of Roger Segun and Josephine Clam.

x x x

FISCAL BALABAGAN

Q

Who were the people you met inside the house of Josephine Clam?

A

Them.

Q

Are you referring Roger Segun and Josephine Clam?

A

Yes.

Q

Then what happened there when you went to the house of the accused?

A

They promised that the transportation to Manila is free and free meals and good wages.

Q

Because of this free meals and transportation to Manila they promised to your grandsons and you what happened?

A

They brought them to Cabanatuan City.

Q

Did you agree with this?

A

Yes, I agree.

Q

You agreed because of this promise of free transportation and good wages for your grandchildren?

A

Yes.[40]

On cross-examination, Melecio said:

Q

You only learn from somebody that your grandsons were recruited by the two accused?

A

From them personally because I went to their house.

Q

You mean the house of your grandson?

A

I went to the house of the recruiters because they were staying in my house.

Q

When you went to their house your grandsons were not there?

A

My two grandsons were there.

Q

Can you recall when your two grandsons Johnely and Jonard allegedly recruited by the two accused?

A

Sometime on the 16 or 17[th].

Q

What month?

A

April.

Q

You were not present when your two grandsons were allegedly recruited by the two accused?

A

I was there present.[41]

Note again the use of the term “recruit,” a defect present in the testimonies of Rogelio Collantes, Loreta Cavan and Josephine Aba. While Melecio Aba said that appellants promised his grandsons free transportation and meals, and good wages, these promises, as we have observed in analyzing Josephine Aba’s testimony, are not incongruent with appellants’ version.

Lastly, Elena Arañas’ testimony on her son Richard’s alleged recruitment is insufficient to prove appellants’ guilt. Elena testified on direct examination:

FISCAL BALABAGAN

Q

Mrs. Elena Arañas, do you know Richard Arañas?

WITNESS

A

Yes, he is my son.

Q

Where is he now?

A

In Cabanatuan City brought by Josephine Clam

Q

Do you know what is the family name of Josephine?

A

Yes, Clam.

Q

When was your son brought by Josephine Clam and Roger Segun?

A

March 6, that was Saturday.

Q

Do you know the reason why they brought your son in Cabanatuan on March 6, 1993?

A

Because of the promise that he would be given good salary.

COURT

Q

How do you know that he was promised of a good salary?

A

Because I went to their house.

FISCAL BALABAGAN

Q

Are you referring to the house of Josephine Clam?

A

Yes.

Q

Were there people there when you arrived there?

A

Yes, Josephine Clam, Roger Segun, my son and others.

Q

Did you agree to recruitment that your son will be brought to Cabanatuan City?

A

Yes.

Q

Why did you agree?

A

Because of the promise that they would receive good salary.

Q

Did he went there personally?

A

No.

x x x

FISCAL BALABAGAN

Q

How was your son recruited by the accused in this case?

A

As they promised that the salary is quite big.[42]

On cross-examination, Elena said:

Q

You were not present when your son was allegedly recruited by the accused?

A

I was there.

Q

The accused in this case did not offer to your son but it was your son who asked helped (sic) to find a job?

A

My son was recruited that he would be given work.

COURT

Q

The 2 accused never approached your son they have work in Cabanatuan City?

A

Yes, they said that.

ATTY. BAYRON

Q

The accused tell (sic) your son that they will help your son to find a job?

A

Yes, sir.[43]

Elena's testimony fails to state the specific act constituting the recruitment. Elena merely declared that her son was "recruited" – a legal conclusion. Appellants also supposedly said that "they have work in Cabanatuan City" and that "they will help [her] son to find a job." Elena did not state the context and the circumstances under which these statements were made. Moreover, the statements attributed to appellants are ambiguous and hardly incongruous with appellants' claim that they assisted their neighbors find work, which assistance does not necessarily translate to an act of recruitment. That there was a supposed promise of a good salary is also ambiguous for, as noted earlier, the reference to good wages could mean that the rates of compensation in Cabanatuan City are higher compared to those in Lanao del Norte.

In sum, the prosecution failed to elicit from many of its witnesses the specific acts constituting the recruitment of the other alleged victims. The prosecution was able to prove that appellants performed recruitment activities only in the cases of Victoria Collantes and Loreta Cavan. The third element of illegal recruitment, i.e., that the offender commits the acts of recruitment against three or more persons is, therefore, absent. Consequently, appellants can be convicted only of two counts of "simple" illegal recruitment.

WHEREFORE, the Decision of the Regional Trial Court is MODIFIED. Appellants are found GUILTY beyond reasonable doubt of two counts of illegal recruitment, as defined and punished by Article 38 (a) of the Labor Code, in relation to Articles 13 (b) and 39 thereof. They are each sentenced to suffer for each count imprisonment of four (4) to five (5) years.

SO ORDERED.

Davide, Jr., C.J., (Chairman), and Ynares-Santiago, JJ., concur.
Puno, J., on official leave.

[1] Rollo, p. 21.

[2] TSN, July 6, 1994, pp. 3-5.

[3] Exhibit "A."

[4] Exhibit "B."

[5] TSN, July 6, 1994, pp. 12-17.

[6] TSN, July 7, 1994, A.M. Hearing, pp. 2-6.

[7] Id., at 7-12.

[8] Id., at 12-16.

[9] TSN, July 7, 1994, P.M. Hearing, pp. 11-17.

[*] Also appears as "Caban" in the records.

[10] Id., at 2-10.

[11] Id., at 21-22.

[12] Id., at 17-20.

[13] TSN, July 19, 1994, pp. 2-7.

[14] Id., at 8-12.

[15] Id., at 13-19.

[16] TSN, July 20, 1994, pp. 2-6.

[17] Id., at 6-10.

[18] Rollo, p. 34.

[19] Id., at 83-85.

[20] *People vs. Avola*, 318 SCRA 206 (1999); *People vs. Yabut*, 316 SCRA 237 (1999); *People vs. Gharbia*, 310 SCRA 685 (1999); *People vs. Enriquez*, 306 SCRA 739 (1999).

[21] TSN, July 20, 1994, P.M. Hearing, pp. 6 and 9.

[22] *People of the Philippines vs. Carol M. de la Peidra*, G.R. No. 121777, January 24, 2001, citing *People vs. Reyes*, 242 SCRA 264 (1995).

[23] *People of the Philippines vs. Carol M. dela Piedra*, *supra*, citing *People vs. Ortiz-Mijake*, 279 SCRA 180 (1977).

[24] TSN, July 6, 1994, p. 14. Underscoring supplied.

- [25] *Id.*, at 19. Underscoring supplied.
- [26] *People of the Philippines vs. Carol M. de la Piedra*, *supra*, citing *Salonga v. Paño*, 134 SCRA 438 (1985).
- [27] TSN, July 7, 1994, A.M. Hearing, pp. 13-14. Underscoring supplied.
- [28] *People vs. De Guzman*, 265 SCRA 228 (1996).
- [29] *People vs. Caingat*, G.R. No. 137963, February 6, 2002.
- [30] E.g., *People vs. Tabugoca*, 285 SCRA 312 (1998).
- [31] *People vs. Cawaling*, 293 SCRA 267 (1998); *People vs. Ferras*, 289 SCRA 4 (1998).
- [32] TSN, July 7, 1994, P.M. Hearing, pp. 12-14.
- [33] *Id.*, at 15-16.
- [34] *Id.*, at 16-17.
- [35] *Id.*, at 3-4, A.M. Hearing.
- [36] *Id.*, at 8-9. Underscoring supplied.
- [37] *Id.*, at 4-5. Underscoring supplied.
- [38] *Id.*, at 7. Underscoring supplied.
- [39] *Id.*, at 3-4.
- [40] TSN, July 7, 1994, A.M. Hearing, pp. 9-10.
- [41] *Id.*, at 11.
- [42] *Id.*, at 18-19, P.M. Hearing.
- [43] *Id.*, at 20-21, P.M. Hearing.

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