

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDITHA SEÑORON Y LIMORA, ACCUSED-APPELLANT.*G.R. No. 119160. January 30, 1997*

Ponente: FRANCISCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-119160/>**FRANCISCO, J.:**

Appellant Editha L. Señoron and her co-accused Aquilino Ilano and one John Doe, both at large, were charged in four separate informations with one count of illegal recruitment in large scale[1] and three counts of estafa[2] before the Regional Trial Court of Pasay City.[3] When arraigned, appellant pleaded not guilty. Trial thereafter ensued. On October 25, 1994, the trial court rendered a decision convicting appellant as charged and sentencing her “to suffer a penalty of life imprisonment and to pay a fine of one hundred thousand pesos (P100,000.00)”[4] for illegal recruitment, and “to suffer a penalty of three (3) times of *arresto mayor* in its maximum period as minimum (or two (2) years ten (10) months and twenty one (21) days) to *prision mayor* in its minimum period as maximum (or to eight (8) years) and to compensate the private complainants the sum of fifty nine thousand pesos (P59,000.00)”[5] for the three counts of estafa. Dissatisfied, appellant interposed the instant appeal with the following assignment of errors, thus:

“I

“THE LOWER COURT ERRED IN NOT FINDING THAT THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED-APPELLANT EDITHA SENORON BEYOND REASONABLE DOUBT IN THE ILLEGAL RECRUITMENT, (LARGE SCALE) CASE.

“II

“THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT EDITHA SEÑORON OF THE CRIME OF ILLEGAL RECRUITMENT, (LARGE SCALE) AND SENTENCING HER TO SUFFER A PENALTY OF LIFE IMPRISONMENT AND TO PAY A FINE OF ONE HUNDRED THOUSAND PESOS (P100,000.00).”[6]

Aptly narrated in the People’s brief and supported by the evidence on record are the following facts:

“At the consolidated hearing of the cases filed against appellant, complainants Cesar Virtucio, Ronilo Bueno and Greg Corsega testified for the prosecution.

“Cesar Virtucio testified that sometime in October 1991, he met appellant at accused Aquilino Ilano’s house in Malibay, Pasay City, when he (Virtucio) and other applicants applied for jobs abroad (tsn, May 27, 1993, p. 6). During the meeting at Ilano’s residence, Virtucio and his companions were given job application forms which they filled up as told (ibid, p. 9). Thereafter, Virtucio paid Ilano, in the presence of appellant, the amount of P20,000.00 as placement fee (Exhibit “B”). After paying the placement fee, Virtucio and his companions were told by appellant to follow-up their applications at her office or at Padre Faura, Manila (ibid, p. 14). Appellant failed to send Virtucio and his companions abroad, hence, he (Virtucio), together with applicants Ronilo Bueno and Greg Corsega, filed a complaint for Illegal Recruitment and Estafa against appellant, a certain John Doe

and Aquilino Ilano before the National Bureau of Investigation (ibid, p. 18).

“Greg Corsega, one of the three (3) complainants, testified that accused Aquilino Ilano introduced him to appellant as the person who will process his papers for employment abroad (tsn, June 30, 1993, pp.8 to 9). Thereafter, Ilano demanded from Corsega the amount of Twenty Thousand Pesos (P20,000.00) as placement fee (ibid). The amount of Twenty Thousand Pesos (P20,000.00) was given to Ilano in the presence of appellant and it was at this juncture that appellant promised Corsega and his companions (Virtucio and Bueno) that they will be called as a group to sign a contract. However, appellant's promise to deploy Corsega, Virtucio and Bueno for employment abroad never materialized, prompting him (Corsega), Virtucio and Bueno to file a complaint for Illegal Recruitment and Estafa against appellant, John Doe and Aquilino Ilano before the National Bureau of Investigation.

“Ronilo Bueno testified that he was initially referred by Aquilino Ilano to his (Ilano's) secretary in order to sign papers for employment abroad (August 31, 1993, p. 4). After signing some papers, Bueno was required by Ilano to pay the amount of P19,000.00 for the processing of his passport and visa (ibid, p. 5).

“The amount of P19,000.00 was immediately paid to Ilano in the presence of appellant (ibid, p. 7). Whereupon, Ilano told Bueno that the money will be given to appellant who will be responsible in the processing of their papers for employment abroad (ibid, p. 9). The promise to deploy Bueno, Virtucio and Corsega abroad did not materialize, hence, the three (Bueno, Virtucio and Corsega) went to appellant, who showed them the list of the money paid by them. At the same time, appellant advised the three to wait for notice of their employment abroad (ibid., pp. 9 to 10). Again, nothing happened to their applications and this prompted Bueno and his companions (Virtucio and Corsega) to file charges of Illegal Recruitment and Estafa against Aquilino Ilano, John Doe and appellant before the National Bureau of Investigation.

“Bueno, Virtucio and Corsega uniformly testified that before the filing of Illegal Recruitment and Estafa cases against Aquilino Ilano, John Doe and appellant before the National Bureau of Investigation, they (Bueno, Virtucio and Corsega) asked for the return of their money. Consequently, appellant issued Interbank Check No. 05263108 in the amount of P135,000.00 in words but P130,000.00 in figures. They also testified that the amount covers the payment given by nine (9) applicants including complainants (tsn, May 27, 1993, p. 16 and tsn, June 30, 1993, pp. 33 to 34). However, Interbank Check No. 05263108 was never encashed as an inquiry from the bank revealed that the check was not sufficiently funded (ibid., p. 38).

“The prosecution presented as its last witness Socorro Landas, an employee of the Philippine Overseas Employment Administration (POEA), who testified that appellant is not licensed by the Philippine Overseas Employment Administration to be a recruiter (tsn, February 11, 1993, pp. 2 to 5).”[7]

“On the other hand, as lone witness for her defense, accused EDITHA SEÑORON, testified that she only met the private complainants at the National Bureau of Investigation on September 1993, that she has nothing to do with the receipts of payment to Greg Corsega; and Cesar Virtucio which receipts were signed by Aquilino Ilano. She admitted having issued check No. 05263108 (Exh. C) just to accommodate co-accused Aquilino Ilano who promised that he will be the one to put funds on said check.”[8]

At the outset, the Court observes that appellant confines her appeal to her conviction for illegal recruitment as she neither questioned nor assailed her convictions for the three (3) counts of estafa. The failure to appeal therefrom rendered the estafa convictions final and executory; hence, this review shall be limited to the illegal recruitment case.

In essence, the centerpiece of appellant's defense dwells on the alleged insufficiency of the prosecution's evidence to prove her guilt as “[t]here is nothing on record ... which says that placement fees received by Aquilino Ilano from the three (3) private complainants was turned over to [her]”.^[9] Appellant asserts that she never issued or signed any receipts and that as a matter of fact “[t]he receipts of payment of alleged placement fees were

received and receipted by accused Aquilino Ilano.”[10] Appellant also harps on her being a mere accommodation party in the issuance of the Interbank Check in the amount of P135,000.00 and “that after the check bounced”, she contends that “no notice whatsoever was given to [her]”. [11] Thus, appellant concludes that the prosecution failed to discharge its burden of proof thereby necessitating her acquittal.

We are not persuaded.

Illegal recruitment is defined under Article 38 (a) of the Labor Code, as amended, as “(a)ny recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority.” Article 13 (b) of the Code defines “recruitment and placement” as

“[A]ny 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.”

To prove illegal recruitment, two elements must be shown, namely: (1) the person charged with the crime must have undertaken recruitment activities, or any of the activities enumerated in Article 34 of the Labor Code, as amended; and (2) said person does not have a license[12] or authority[13] to do so.[14] Contrary to appellant's mistaken notion, therefore, it is not the issuance or signing of receipts for the placement fees that makes a case for illegal recruitment, but rather the undertaking of recruitment activities without the necessary license or authority. And in this case, evidence on record belie appellant's assertion that she did not engage in any recruitment activity and that the fees paid by the applicants were not turned over to her possession as shown by the following testimony of private complainant Virtucio, thus:

Fiscal

Untalan:

Q:

Now, you said that you together with your co-complainant were recruited by the accused at Malibay, Pasay City, now, in connection with that recruitment of applicant, do you remember when was your transaction if there was any?

A:

Before we were recruited she gave us an application paper which we filled up and she told us to file (sic) it up.

Q:

And did you comply?

A:

Yes, sir.”

Q:

Now, after having paid that placement fee of P20,000.00 to the accused, what happened next?

A:

She told us to follow it up at her residence and also at her office in Padre Faura.

Q:

And what happened to your follow up?

A:

Nothing, sir.” (tsn, May 27, 1993, pp. 9-10, 13-14.) [15]

which testimony was corroborated by prosecution witness Ronilo Bueno. Thus:

“Fiscal Untalan

Q:

Is this promised of Ilano materialized? (sic)

A:

No, sir.

Q:

Do you know the reason why?

A:

Ilano told us that our money will be paid to Edith and that Edith would be the one to attend to our papers.

Q:

After knowing that information what did you do?

A:

We went to Edith.

Q:

You said, we, who are your companions?

A:

Corsega and Virtucio.

Q:

What happened when you together with Corsega and Virtucio went to Editha Señoron?

A:

She showed to us the list of the money that we paid and told us to wait.

Q:

And then what did you do, did you wait?

A:

Yes, sir.

Q:

What happened?

A:

Nothing happened and “tumagal”.

Q:

You said nothing happened and “tumagal” for how long?

A:

Almost a year.

Q:

After that period of time what did you do together with the others?

A:

We filed a complaint before the NBI.

Q:

Before you filed this complaint did you ask the return of your money before the accused?

A:

Yes, sir.

Q:

What was the answer?

A:

Edith issued a check.

Q:

What check?

A:

Interbank check.

Fiscal

Untalan:

Q:

Now, when you filed your application to the accused for a Job abroad particularly in Taiwan and you were failed to be deployed together with your companions, what did you do? (sic)

A:

We asked for the refund of the money we have paid.

Q:

Now, what else aside from that?

A:

When the check she issued to us bounced we filed the complaint before the NBI.

Q:

Before filing any case with the NBI did you make any investigation as to the capacity of the agency whether they are authorized?

A:

Yes, sir.

Q:

Where did you verify its authority?

A:

POEA.

Q:

What happened there?

A:

That they were not legitimate to recruit (sic).” (tsn, August 31, 1993, pp. 9-12)[16]

Appellant made a distinct impression that she had the ability to send applicants for work abroad. She, however, does not possess any license or authority to recruit which fact was confirmed by the duly authenticated certification[17] issued by the Manager of the Licensing Branch of the POEA, and by the testimony of Ms. Socorro Landas representing the Licensing Division of the Philippine Overseas Employment Administration (POEA). It is the lack of necessary license or authority that renders the recruitment activity, as in this case, unlawful or criminal.[18]

Appellant's residual arguments that she was just an accommodation maker in the issuance of the check and that private complainants failed to notify her after the check bounced do not merit serious consideration. It has to be emphasized that appellant is not being prosecuted for violation of the anti-bouncing check law[19] where the foregoing contentions may have an impact, but for illegal recruitment which the prosecution was able to establish beyond reasonable doubt.

WHEREFORE, the trial court's decision is hereby AFFIRMED.
SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] Criminal Case No. 92-1453.

[2] Criminal Case Nos. 92-2042, 92-2043, and 92-2044.

[3] Branch 115, Hon. Editha M. Mulingtapang, Judge.

[4] Decision, p. 5.

[5] Id.

[6] Brief for Accused-appellant, p. 4.

[7] Brief for Plaintiff-Appellee, p. 7-11.

[8] Decision, p. 4; Rollo, p. 17.

[9] Brief for Accused-Appellant, p. 25.

[10] Id., p. 28.

[11] Id., p. 22.

[12] A document issued by the Department of Labor authorizing a person or entity to operate a private employment agency (Article 13 [d] of the Labor Code).

[13] A document issued by the Department of Labor authorizing a person or association to engage in recruitment and placement activities as a private recruitment entity (Article 13 [f] of the Labor Code).

[14] *People v. Cabacang*, 246 SCRA 530; *Flores v. People*, 211 SCRA 622; *People v. Bodozo*, 215 SCRA 33.

[15] Brief for Plaintiff-Appellee, pp. 14-15.

[16] Id., pp. 18-21.

[17] Exhs. A to A-4, February 10, 1993.

[18] *People v. Sendon*, 228 SCRA 489.

[19] Batas Pambansa Bilang 22.

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