PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSALINDA ARIOLA, ELVIRA OBANA, BABY CASTILLO, LEODEGARIO LAGARAS, MILOGENE HALINA AND JOVITO BERMUDES, ACCUSED.

G.R. No. 131777. November 16, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is an appeal by ELVIRA OBANA from the Decision of the Regional Trial Court of Caloocan City convicting her together with Rosalinda Ariola of Illegal Recruitment in Large Scale defined and penalized under Arts. 38 and 39 of the Labor Code as amended and sentencing each of them to life imprisonment and to pay a fine of P100,000.00, as well as to pay jointly and severally the actual damages suffered by the complaining witnesses in the total amount of P24,150.00: P6,200.00 to Conrado Punsalang, P5,450.00 for Adriano Nagrama, P5,000.00 for Merly Cascayan and P7,500.00 for Donato Busmente.[1]

The evidence shows that the six (6) accused led by Rosalinda Ariola represented to complaining witnesses Conrado Punsalang, Adriano Nagrama, Merly Cascayan and Donato Busmente that they were connected with the Manila Booking Agency, a recruitment agency hiring workers for overseas employment with main office in Baclaran and an annex office in Caloocan City, and informed them of various job openings in Papua New Guinea. The accused enticed them to apply and promised them employment upon payment of the appropriate recruitment fees.

Thus on different dates complainants Punsalang, Nagrama, Cascayan and Busmente went to the office of the accused to file their applications together with the pertinent supporting documents, e.g., bio-data, employment certificates, birth certificates and NBI clearances. Punsalang applied as administrative officer, Nagrama as security personnel, Cascayan as filing clerk, and Busmente as draftsman. In turn, accused collected from them recruitment and placement fees in the amount of P5,000.00 each, except Busmente who was required to pay P13,500.00 out of which he paid an initial downpayment of P3,500.00.

But Ariola and her cohorts failed to deploy complaining witnesses to Papua New Guinea as promised. When the complainants verified the status of their applications at the Manila Booking Company they discovered that the office was actually that of Afro-Asian Development and Services Corporation and not the Manila Booking Agency as they were made to understand by the accused. Upon further inquiry they found out that Ariola was not even a licensed recruiter and the Manila Booking Agency denied having authorized her to represent it in its recruitment activities.

Consequently, complaining witnesses filed separate affidavit- complaints for illegal recruitment against herein accused Rosalinda Ariola, Elvira Obana, Baby Castillo, Leodegario Lagaras, Milogene Halina and Jovito Bermudes. Ariola and Obana were subsequently arrested and tried while the rest of the accused remained at large. The court a quo convicted both accused of illegal recruitment committed in pursuance of a conspiracy holding

that -

> x x x x accused Obana's mere denial of any participation with (sic) the illegal recruitment activity of co-accused Ariola, without any evidence supporting it, is simply undeserving of any weight. As could be gleaned from the x x x testimonies of the complainants, accused Obana actively participated in the illegal recruitment activities of accused Ariola and that both accused cooperated and worked together for the purpose of recruiting for a fee herein complainants. It is a basic rule in conspiracy that "cooperative acts of the accused towards the common criminal objective prove that they were parties to a conspiracy."
>
> Moreover, taken as a whole, the case of the prosecution has passed the crucible test of the examination by the defense, as the testimonies of each of the complainants are not only consistent in all material respects but also replete with every detail of the questioned transactions they had with the accused, thus, the Court finds that said complainants were indeed illegally recruited by accused Obana and Ariola.

Ariola did not appeal and was therefore deemed to have accepted the judgment of conviction. On the other hand, Obana appealed arguing that the lower court erred: (a) in finding that the accused acted pursuant to a conspiracy in committing illegal recruitment in large scale despite the insufficiency of the evidence to establish the same; and, (b) in convicting her of the offense charged despite the failure of the prosecution to prove her guilt beyond reasonable doubt.

The crime of illegal recruitment in large scale is committed when three (3) elements concur, namely: (a) The offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers; (b) The offender undertakes either any activity within the meaning of "recruitment and placement" defined under Art. 13, par. (b), of the Labor Code,[2] or any of the prohibited acts enumerated in Art. 34[3] of the same Code; and (c) The offender committed the same against three (3) or more persons, individually or as a group.[4]

The foregoing elements were sufficiently established by the prosecution in the instant case. As certified by the POEA, Ariola and her co-conspirators did not have any authority or license to engage in recruitment and placement of workers abroad,[5] and that the crime of illegal recruitment was committed against four (4) persons, namely, Conrado Punsalang, Adriano Nagrama, Merly Cascayan and Donato Busmente. Evidently, Ariola and her co-accused gave their innocent victims the distinct impression that they had the power and ability to send people to Papua New Guinea for work when in fact they had none. Their assurances and promises of employment abroad induced the complainants to part with their hard earned money as "placement" fees.

We find no cogent reason to disturb the findings of the lower court that there was conspiracy among the accused in the commission of the offense. The testimonies of the four (4) complainants indubitably show that there was a delineation of roles among the accused. Ariola represented herself as the recruitment coordinator in charge of giving orientation and receiving payments of applicants; Lagaras and Bermudes acted as field recruiters; and, accused-appellant Obana, Castillo and Halina as assistants during the orientation of applicants. Hence, conspiracy to defraud aspiring overseas workers was crystal clear from the acts of all the accused whose conduct before, during and after the commission of the crime clearly indicated they had the same purpose and were united in its execution. Direct proof of previous agreement to commit a crime is not necessary. It may be deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused which point to a joint purpose and design, concerted action and community of interest.[6]

Obana posits in her brief that the evidence is insufficient to prove that she had actually, willfully and voluntarily participated in any manner with her alleged co-conspirators in recruiting the complainants.

We are not persuaded. Her active participation in the illegal recruitment process belies her claim of innocence. As

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testified to by Adriano Nagrama, one of the complaining witnesses -

Q:

After you brought your bio-data along with you and your placement fee, what happened next, if any?

A:

Lagaras and Elvie Obana brought me to a canteen near that office, sir.

Q:

And who is this Elvie that you are referring to?

A:

According to her, sir, she is a coordinator, sir, of Afro Asian Development Corporation.

Q:

And where is that canteen located?

A:

About 100 meters away from that office, sir.

Q:

And what did you do, if any, at the canteen with Elvie and Mr. Lagaras?

A:

While we were there, sir, I was apprised about the benefits that may be received and the things we should do when we are (sic) already deployed, sir.

Q:

Who in particular apprised you of the benefits and duties that you are (sic) supposed to do?

A:

Elvie Obana, sir, Baby Castillo and Mr. Leodegario Lagaras were the ones who apprised me of my duties. x x x x

Q:

Now, what was their response when you informed them that you can (sic) pay it immediately provided that there is (sic) a receipt?

A:

Baby Castillo and Elvie Obana went to the office to get a receipt, and then when they returned, they gave me a receipt which was signed by Rosalinda Ariola already, sir. x x x x

Q:

And who handed to you the receipt?

A:

Elvie Obana, sir.[7]

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Furthermore, Donato Busmente, another complaining witness, testified that accused-appellant was part of Ariola's group -

Q:

Now, a while ago you mentioned that you knew also this other accused Elvie Obana, how did you come to know about this Elvie Obana?

A:

The way I look (sic) at them, sir, she is (sic) part of the group sir?

Q:

And why did you say that she is (sic) part of the group?

A:

Because there was a time that I went to the residence of Rose Ariola, an apartment at Ermin Garcia, Quezon City, I saw this Elvie Obana, sir.

Q:

What was she doing there at the house of Rose Ariola?

A:

When I went to that place, sir, Carlito Mercado was with me, and in my observation Rose Arriola is (sic) conducting her official business there, at her residence, and I was told that she is (sic) no longer connected with Manila Booking, sir.

Q:

How about Elvie Obana, what was she doing there? x x x x

A:

She was assisting Rose Ariola, sir.

Q:

In what manner was she assisting Rose Ariola?

A:

When Rose Ariola needs something, she orders Elvie Obana, sir.

Q:

Were these orders, does (sic) it (sic) concern personal matters of Rose Ariola or the business of Rose Ariola?

A:

She also knows something on the files or records of the office, sir, and when I asked about my application, I was told that my file was with them, sir.

Q:

To whom did you ask that question and who answered that he had your papers?

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A:

Ariola, sir.

Q:

Now, aside from the house of Ariola were there other instances that you were able to see this Elvie Obana?

A:

No more, sir, except at J. Teodoro and Ermin Garcia, sir.

Q:

How about at J. Teodoro, in what occasion were you able to see this Elvie Obana?

A:

When I was following up my application, sir, I saw her there.[8]

The precise degree of participation of accused-appellant Obana in the illegal recruitment scheme is very clear from the foregoing testimonies. She was present when complainant Adriano Nagrama was being recruited and was in fact assisting Ariola by: (a) receiving the documents submitted by the applicant; (b) apprising the applicant of the benefit he was supposed to receive and the duties he was required to perform once deployed to Papua New Guinea; and, (c) securing the receipt issued to the applicant upon payment of recruitment and placement fees. She even went as far as to misrepresent to complainant Adriano Nagrama that she was a coordinator of Afro-Asian Development Corporation. Additionally, she assisted Ariola in the conduct of her illegal business at her office-residence in Quezon City.

These acts of accused-appellant demonstrated beyond any shadow of doubt that she was a knowing and willing participant in the recruitment activities of Ariola and her group. Moreover, accused-appellant Obana's denial cannot prevail over the positive assertions of complaining witnesses who had no motive to testify falsely against her, except to tell the truth. Consequently, we do not hesitate to rule, as did the trial court, that accused-appellant and the group of Ariola, some of whom are still at large, were co-conspirators in the illegal recruitment business which, as discussed herein, was on a large scale within the purview of Arts. 38 and 39 of the Labor Code.

WHEREFORE, the assailed Decision of the trial court dated 22 October 1997 finding accused-appellant Elvira Obana guilty beyond reasonable doubt of Illegal Recruitment in Large Scale, sentencing her to life imprisonment and to pay a fine of P100,000.00, as well as to pay complainants jointly and severally with Rosalinda Ariola actual damages in the total amount of P24,150.00 - P6,200.00 for Conrado Punsalang, P5,450.00 for Adriano Nagrama, P5,000.00 for Merly Cascayan and P7,500.00 for Donato Busmente - is AFFIRMED. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Decision penned by Judge Antonio J. Fineza, RTC-Br. 131, Caloocan City, in Crim. Case No. 49770, promulgated 22 October 1997.

[2] ART. 13. Definitions. - x x x x (b) "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.

[3] ART. 34. Prohibited practices. - It shall be unlawful for any individual, entity, licensee, or holder of authority: (a) To charge or accept, directly or indirectly, any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor, or to make a worker pay any amount greater than that actually received by him as a loan or advance; (b) To furnish or publish any false notice or information or document in relation to recruitment or employment; (c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under this Code; (d) To induce or to attempt to induce a worker already employed to quit his employment in order to offer him to another unless the transfer is designed to liberate the worker from oppressive terms and conditions of employment; (e) To influence or to attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency; (f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines; (g) To obstruct or attempt to obstruct inspection by the Secretary of Labor or by his duly authorized representatives; (h) To fail to file reports on the status of employment, placement, vacancies, remittances of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor; (i) To substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the periods of expiration of the same without the approval of the Secretary of Labor; (j) To become an officer or member of the Board or any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency; and, (k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under this Code and its implementing rules and regulations.

[4] See Art. 38 (b), Labor Code of the Philippines, as amended.

[5] Exh. "C."

[6] People v. Benemerito, G.R. No. 120389, 21 November 1996, 264 SCRA 677.

[7] TSN, 19 March 1996, pp. 5-8.

[8] Id., 21 May 1996, pp. 13-14.

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