

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SAMINA ANGELES Y CALMA, ACCUSED-APPELLANT.

G.R. No. 132376. April 11, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Samina Angeles y Calma was charged with four (4) counts of estafa and one (1) count of illegal recruitment in the following informations:[1]

Criminal Case No. 94-140585 (Estafa)

That on or about September 8, 1994 in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud MARIA TOLOSA DE SARDEÑA Y TABLADA in the following manner to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said Maria Tolosa de Sardeña y Tablada to the effect that she had the power and capacity to recruit and employ her as domestic helper in Paris, France, and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Maria Tolosa de Sardeña y Tablada to give and deliver, as in fact she gave and delivered to said accused the amount of P107,000.00 on the strength of said manifestations and representations, accused well knowing that the same were false and fraudulent and were made solely, to obtain, as in fact she did obtain the amount of P107,000.00 which amount once in her possession, with intent to defraud, willfully, unlawfully and feloniously misappropriated, misapplied and converted the same to her own personal use and benefit to the damage and prejudice of said Maria Tolosa de Sardeña y Tablada in the aforesaid sum of P107,000.00 Philippine Currency.

Criminal Case No. 94-140486 (Estafa)

That on or about September 8, 1994 in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud MARCELIANO T. TOLOSA in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said MARCELIANO T. TOLOSA to the effect that she had the power and capacity to recruit and employ him as contract worker in Paris, France and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Marceliano T. Tolosa accused well knowing that the same were false and fraudulent and were made solely, to obtain, as in fact she did obtain the amount of P190,000.00 which amount once in their possession, with intent to defraud, willfully, unlawfully and feloniously misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of said Marceliano T. Tolosa in the aforesaid sum of P190,000.00, Philippine Currency.

Criminal Case No. 94-140487 (Estafa)

That on or about September 9, 1994 in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud PRECILA P. OLPINDO in the following manner to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said Precila P.

Olpindo to the effect that she had the power and capacity to recruit and employ her as contract worker in Canada and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Precila P. Olpindo to give and deliver, as in fact she delivered to said accused the amount of \$2,550.00 on the strength of said manifestations and representations, said Precila P. Olpindo accused well knowing that the same were false and fraudulent and were made solely, to obtain, as in fact she did obtain the amount of \$2,550.00 which amount once in her possession, with intent to defraud, willfully, unlawfully and feloniously misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of said Precila P. Olpindo in the aforesaid sum of \$2,550.00 or its equivalent in Philippine Currency of P61,200.00.

Criminal Case No. 94-140488 (Estafa)

That on or about the first week of September 1994 in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously defraud VILMA S. BRINA in the following manner to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said Vilma S. Brina to the effect that she had the power and capacity to recruit and employ her as contract worker in Canada and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Vilma S. Brina to give and deliver, as in fact she gave and delivered to said accused the amount of \$2,550.00 on the strength of said manifestations and representations, accused well knowing that the same were false and fraudulent and were made solely, to obtain, as in fact she did obtain the amount of \$2,550.00 which amount once in her possession, with intent to defraud, willfully, unlawfully and feloniously misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of said Vilma S. Brina in the aforesaid sum of \$2,550.00 or its equivalent in Philippine Currency of P61,200.00.

Criminal Case No. 94-140489 (Illegal Recruitment)

The undersigned accuses SAMINA ANGELES y CALMA of violation of Art. 38 (a) Pres. Decree No. 1412 amending certain provisions of Book 1, Pres. Decree No. 442 otherwise known as the New Labor Code of the Philippines in relation to Article 13 (b) and (c) of said Code, as further amended in a large scale, as follows:

That sometime during the month of September 1994 in the City of Manila, Philippines, the said accused, representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully for a fee, recruit and promise employment/job placement abroad to the following persons:

1. Marceliano T. Tolosa
2. Precila P. Olpindo
3. Vilma S. Brina
4. Maria Tolosa de Sardeña y Tablada

Without first having secured the required license or authority from the Department of Labor and Employment.

The five (5) cases were consolidated and tried jointly by the Regional Trial Court of Manila, Branch 50.

Maria Tolosa Sardeña was working in Saudi Arabia when she received a call from her sister, Priscilla Agoncillo, who was in Paris, France. Priscilla advised Maria to return to the Philippines and await the arrival of her friend, accused-appellant Samina Angeles, who will assist in processing her travel and employment documents to Paris, France. Heeding her sister's advice, Maria immediately returned to the Philippines.

Marceliano Tolosa who at that time was in the Philippines likewise received instructions from his sister Priscilla to meet accused-appellant who will also assist in the processing of his documents for Paris, France.

Maria and Marceliano eventually met accused-appellant in September 1994 at Expert Travel Agency on Mabini

Street, Manila. During their meeting, accused-appellant asked if they had the money required for the processing of their documents. On September 8, 1994, Maria gave P107,000.00 to accused-appellant at Expert Travel Agency. Subsequently, she gave another P46,000.00 and US\$1,500.00 as additional payments to accused-appellant.

Marceliano, on the other hand, initially gave P100,000.00 to accused-appellant but on September 28, 1994, he gave an additional P46,000.00 and US\$1,500.00 to accused-appellant at the United Coconut Planters Bank in Makati.

Analyn Olpindo met accused-appellant in Belgium. At that time, Analyn was working in Canada but she went to Belgium to visit her in-laws. After meeting accused-appellant, Analyn Olpindo called up her sister, Precila Olpindo, in the Philippines and told her to meet accused-appellant upon the latter's arrival in the Philippines because accused-appellant can help process her documents for employment in Canada.

Precila Olpindo eventually met accused-appellant at the Expert Travel Agency on September 7, 1994. Accused-appellant asked for the amount of \$4,500.00, but Precila was only able to give \$2,500.00.

No evidence was adduced in relation to the complaint of Vilma Brina since she did not testify in court.

Accused-appellant told Precila Olpindo and Vilma Brina that it was easier to complete the processing of their papers if they start from Jakarta, Indonesia rather than from Manila. Thus, on September 23, 1994, Precila Olpindo, Vilma Brina and accused-appellant flew to Jakarta, Indonesia. However, accused-appellant returned to the Philippines after two days, leaving behind Precila and Vilma. They waited for accused-appellant in Jakarta but the latter never returned. Precila and Vilma eventually came home to the Philippines on November 25, 1994.

When she arrived in the Philippines, Precila tried to get in touch with accused-appellant at the Expert Travel Agency, but she could not reach her. Meanwhile, Maria and Marceliano Tolosa also began looking for accused-appellant after she disappeared with their money.

Elisa Campanianos of the Philippine Overseas Employment Agency presented a certification to the effect that accused-appellant was not duly licensed to recruit workers here and abroad.

In her defense, accused-appellant averred that, contrary to the prosecution's allegations, she never represented to the complainants that she can provide them with work abroad. She insisted that she was a marketing consultant and an international trade fair organizer. In June 1994, she went to Paris, France to organize a trade fair. There she met Priscilla Agoncillo, a domestic helper, and they became friends. Priscilla asked her to assist her siblings, Maria and Marceliano, particularly in the processing of their travel documents for France. Accused-appellant told Priscilla that she can only help in the processing of travel documents and nothing more. It was Priscilla who promised employment to Maria and Marceliano. She received money from complainants not in the form of placement fees but for the cost of tickets, hotel accommodations and other travel requirements.

According to accused-appellant, she met Analyn Olpindo in Belgium while she was organizing a trade fair. They also became friends and it was Analyn who asked her to help Precila. Just like in the case of Maria and Marceliano, accused-appellant explained that her assistance shall only entail the processing of Precila's travel documents to Canada.

After trial on the merits, the trial court found accused-appellant guilty of illegal recruitment and four (4) counts of estafa and correspondingly sentenced her as follows:

WHEREFORE, in view of the aforementioned premises the accused SAMINA ANGELES is hereby declared:

In Criminal Case No. 94-140489 for the crime of Illegal Recruitment, GUILTY (Art. 38 Labor Code) and is hereby sentenced to suffer the penalty of life imprisonment and a fine of One Hundred Thousand Pesos

(P100,000.00).

In Criminal Case No. 94-140485 for the crime of Estafa the accused is hereby declared GUILTY and is hereby sentenced to suffer the penalty of from twelve (12) years and one (1) day to twenty (20) years. In addition the accused is ordered to reimburse the amount of One hundred seven thousand pesos (P107,000.00) to complainant Maria Tolosa de Sardeña. With costs.

In Criminal Case No. 94-140486 for the crime of Estafa the accused is hereby declared GUILTY and is hereby sentenced to suffer the penalty of from twelve (12) years and one (1) day to twenty (20) years. In addition the accused is ordered to reimburse the amount of One hundred ninety thousand pesos (P190,000.00) to complainant Marceliano T. Tolosa. With costs.

In Criminal Case No. 94-140487 for the crime of Estafa the accused is hereby declared GUILTY and is hereby sentenced to suffer the penalty of from twelve (12) years and one (1) day to twenty (20) years. In addition the accused is ordered to reimburse the amount of Two thousand five hundred fifty dollars (US\$2,550.00) or its equivalent in Philippine currency of Sixty one thousand two hundred pesos (P61,200.00), to complainant Precila P. Olpindo. With Costs.

In Criminal Case No. 94-140488 for the crime of Estafa the accused is hereby declared GUILTY and is hereby sentenced to suffer the penalty of from twelve (12) years and one (1) day to twenty (20) years. In addition the accused is ordered to reimburse the amount of Two thousand five hundred fifty dollars (US\$2,550.00) or its equivalent in Philippine Currency of Sixty one thousand two hundred pesos (P61,200.00) to complainant Vilma S. Brina. With costs.[2]

Accused-appellant is now before us on appeal, arguing that the prosecution failed to prove her guilt for estafa and illegal recruitment by proof beyond reasonable doubt.

Accused-appellant points out that not one of the complainants testified on what kind of jobs were promised to them, how much they would receive as salaries, the length of their employment and even the names of their employers, which are basic subjects a prospective employee would first determine.

In sum, accused-appellant posits that the prosecution did not present a single evidence to prove that she promised or offered any of the complainants jobs abroad. Illegal recruitment is committed when two (2) elements concur: 1) that the offender has no valid license or authority required by law to enable one to lawfully engage in recruitment and placement of workers; and 2) that the offender undertakes either any activity within the meaning of recruitment and placement defined under Article 13(b), or any prohibited practices enumerated under Article 34.[3]

Article 13(b), of the Labor Code provides, thus:

(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.

To prove illegal recruitment, it must be shown that the accused-appellant gave complainants the distinct impression that he had the power or ability to send complainants abroad for work such that the latter were convinced to part with their money in order to be employed.[4] To be engaged in the practice of recruitment and placement, it is plain that there must at least be a promise or offer of an employment from the person posing as a recruiter whether locally or abroad.

In the case at bar, accused-appellant alleges that she never promised nor offered any job to the complainants.

We agree.

A perusal of the records reveals that not one of the complainants testified that accused-appellant lured them to part with their hard-earned money with promises of jobs abroad. On the contrary, they were all consistent in saying that their relatives abroad were the ones who contacted them and urged them to meet accused-appellant who would assist them in processing their travel documents. Accused-appellant did not have to make promises of employment abroad as these were already done by complainants' relatives. Thus, in the cross-examination of Maria Tolosa de Cardena:

Atty. Dinglasan:

Q:

And you would likewise agree that Priscilla informed you that she can find an employment for you once you entered Paris, is that correct?

A:

Yes, because according to her that is what Samina Angeles said to her.

Q:

In fact, even when you arrived in the Philippines, and actually met in person Samina Angeles, you did not know who is Samina Angeles and what her business was then that time?

A:

I recognized because my sister sent me a picture of Samina Angeles.

Q:

So, it is clear that when you met Samina Angeles sometime on September 8, 1994, you were already decided to go to Paris because you were then relying on the instruction from the advice of Priscilla?

A:

Yes, sir.

Q:

And that was the reason why you even terminated your employment contract in Saudi?

A:

Yes, sir.[5]

Precila Olpindo, on cross-examination, admitted thus:

Q:

You would like to confirm that before you and Samina met in the Philippines sometime in September of 1995,

you were already decided to leave for Canada as per advice of your sister?

A:

Yes, sir.

Q:

And you likewise agree madam witness that even before you met the accused sometime in September of 1995, you were already directed and informed by your sister Ana as to how much and she will pay the accused Samina for the facilitation of your travel in going to Canada, is that correct?

A:

Yes, sir.[6]

In the cross-examination of Marceliano Tolosa, thus:

Q:

Now, would you agree that your sister is working in Paris?

A:

Yes, sir.

Q:

And for how many years working in Paris?

A:

Almost 5 years.

Q:

And how much was she earning or receiving in Paris, France?

A:

P20,000.00 or more, sir.

Q:

And it was for this reason she advised your sister then in Saudi Arabia and you to also go to Paris because she will be receiving more in Paris, correct?

A:

She said when we follow to her office, sir.

Q:

So what your sister told you if you're also interested to go to Paris you can avail of the help of Samina Angeles, so you can also leave for Paris and join her, is that correct?

A:

Yes, sir.

Q:

And that was the reason why your sister wrote you a letter and gave instruction to go to accused sometime on September, 1994, is that correct?

A:

Yes, sir.

Q:

Now you would agree with me Mr. Witness prior to that date September 8, 1994 you don't know personally the person of Samina Angeles and do not know anything about the nature of her business or personal circumstances, is that correct?

A:

Yes, sir.[7]

Plainly, there is no testimony that accused-appellant offered complainants jobs abroad. Hence, accused-appellant Samina Angeles cannot be lawfully convicted of illegal recruitment.

Anent the four charges of estafa, Samina Angeles argues that the element of deceit consisting in the false statement or fraudulent representation of the accused made prior to or simultaneously with the delivery of the sums of money is lacking in the instant case. She claims that she never deceived complainants into believing that she had the authority and capability to send them abroad for employment.

We are not persuaded.

Under Article 315, paragraph 2(a) of the Revised Penal Code, the elements of estafa are: (1) the accused has defrauded another by abuse of confidence or by means of deceit and (2) damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. Clearly, these elements are present in this case.[8]

Although Samina Angeles did not deceive complainants into believing that she could find employment for them abroad, nonetheless, she made them believe that she was processing their travel documents for France and Canada. They parted with their money believing that Samina Angeles would use it to pay for their plane tickets, hotel accommodations and other travel requirements. Upon receiving various amounts from complainants, Samina Angeles used it for other purposes and then conveniently disappeared.

Complainants trusted Samina Angeles because she was referred to them by their own relatives. She abused their confidence when she led them to believe that she can process their travel documents abroad, thus inducing them to part with their money. When they demanded from Samina their travel documents, she failed to produce them. Likewise, she failed to return the amounts entrusted to her.

Clearly, Samina Angeles defrauded complainants by falsely pretending to possess the power and capacity to process their travel documents.

Article 315 of the Revised Penal Code imposes the penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over P12,000.00 but does not exceed P22,000.00; if the amount exceeds P22,000.00, the penalty provided shall be imposed in its maximum period, adding one year for each additional P10,000.00. However, the total penalty which may be imposed shall not exceed twenty years.[9]

In *People v. Ordone*,[10] it was held:

Under the Indeterminate Sentence Law, the maximum term of the penalty shall be “that which, in view of the attending circumstances, could be properly imposed” under the Revised Penal Code, and the minimum shall be “within the range of the penalty next lower to that prescribed for the offense.” The penalty next lower should be based on the penalty prescribed by the Code for the offense, without first considering any modifying circumstance attendant to the commission of the crime. The determination of the minimum penalty is left by law to the sound discretion of the court and it can be anywhere within the range of the penalty next lower without any reference to the periods into which it might be subdivided. The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence.

Thus, in Criminal Case No. 94-140485, Maria Tolosa testified that she gave P107,000.00, P46,000.00 and US\$1,500.00 to Samina Angeles. The Information, however, alleged that Maria gave only P107,000.00. Samina Angeles could therefore be held accountable for only that amount.

In Criminal Case No. 94-140486, Marceliano testified that he gave P100,000.00, P46,000.00 and US\$1,500.00 to Samina Angeles. The Information however alleged that Marceliano gave only a total of P190,000.00; hence that is the only amount that Samina Angeles could be held accountable for.

In Criminal Case No. 94-140487, Precila testified that she gave US\$2,550.00 to Samina Angeles. The Information alleged that the equivalent amount thereof in Philippine Currency is P61,200.00. Samina Angeles is therefore criminally liable for P61,200.00.

Complainant Vilma Brina did not appear in court to testify. Thus, the damage in the amount of \$2,550.00 alleged in Criminal Case No. 94-140488 was not proved.

WHEREFORE, in view of the foregoing, the appealed Decision is MODIFIED as follows:

(1) In Criminal Case No. 94-140485, accused-appellant Samina Angeles is found GUILTY beyond reasonable doubt of the crime of Estafa and sentenced to suffer a prison term of four (4) years and two (2) months of prision correccional, as minimum, to sixteen (16) years of reclusion temporal, as maximum, and is ORDERED to indemnify Maria Sardeña the amount of P107,000.00.

(2) In Criminal Case No. 94-140486, accused-appellant Samina Angeles is found GUILTY beyond reasonable doubt of the crime of Estafa and sentenced to suffer a prison term of four (4) years and two (2) months of prision correccional, as minimum, to twenty (20) years of reclusion temporal, as maximum, and is ORDERED to indemnify Marceliano Tolosa the amount of P190,000.00.

(3) In Criminal Case No. 94-140487, accused-appellant Samina Angeles is found GUILTY beyond reasonable doubt of the crime of Estafa and sentenced to suffer a prison term of four (4) years and two (2) months of prision correccional, as minimum, to eleven (11) years of prision mayor, as maximum, and is ORDERED to indemnify Precila Olpindo the amount of P61,200.00.

(4) In Criminal Case No. 94-140488 for Estafa, accused-appellant Samina Angeles is ACQUITTED for failure

of the prosecution to prove her guilt beyond reasonable doubt.

(5) In Criminal Case No. 94-140489 for Illegal Recruitment, accused-appellant Samina Angeles is ACQUITTED for failure of the prosecution to prove her guilt beyond reasonable doubt.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Austria-Martinez, JJ., concur.

[1] Records, pp. 24-30.

[2] Penned by Judge Urbano C. Victorio Sr.

[3] People v. Saley, 291 SCRA 715 [1998].

[4] People v. Ong, 322 SCRA 38 [2000].

[5] TSN, June 25, 1995, pp. 21-22.

[6] TSN, July 27, 1995, p. 3.

[7] TSN, September 5, 1995, pp. 20-21.

[8] People v. Mercado, 304 SCRA 504 [1999].

[9] People v. Ordonio, 335 SCRA 331 [2000].

[10] Ibid., citing People v. Gabres, 267 SCRA 581 [1997].

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