

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LOURDES VALENCIANO Y DACUBA, ACCUSED-APPELLANT.

G.R. No. 180926. December 10, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision[1] dated July 24, 2007 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01390 which upheld the Decision[2] of the Regional Trial Court (RTC), Branch 116 in Pasay City in Criminal Case No. 97-9851. The RTC convicted Lourdes Valenciano of the crime of Illegal Recruitment in Large Scale.

The Facts

In May 1996, Lourdes Valenciano, claiming to be an employee of Middle East International Manpower Resources, Inc., went with one Susie Caraeg to the house of Agapito De Luna, and told him he could apply for a job in Taiwan. A week later, De Luna went to Valenciano's house, there to be told to undergo a medical examination, with the assurance that if there were a job order abroad, he would be able to leave. He was also told that the placement fee for his employment as a factory worker in Taiwan was PhP 70,000.

After passing the medical examination, De Luna paid Valenciano at the latter's residence the following amounts: PhP 20,000 on June 21, 1996; PhP 20,000 on July 12, 1996; and PhP 30,000 on August 21, 1996. The first and last payments were turned over by Valenciano to Teresita Imperial, who issued the corresponding receipts, and the second payment was turned over by Valenciano to Rodante Imperial, who also issued a receipt.

Also in May 1996, Valenciano visited the house of Allan De Villa, accompanied by Euziel N. Dela Cuesta, Eusebio T. Candelaria, and De Luna, to recruit De Villa as a factory worker in Taiwan. De Villa was also asked for PhP 70,000 as placement fee. He paid Valenciano the following amounts: PhP 20,000 on May 16, 1996 at Valenciano's residence; PhP 20,000 on May 30, 1996 at the Rural Bank of Calaca, Batangas; PhP 20,000 on July 8, 1996 at Valenciano's residence; and PhP 10,000 on August 14, 1996, also at her residence. Valenciano turned over the amounts to either Teresita or Rodante. Teresita issued receipts for the May 16, July 8, and August 14, 1996 payments, while Rodante issued a receipt for the payment made on May 30, 1996.

On May 20, 1996, Valenciano, accompanied by Rodante and Puring Caraeg, went to the house of Dela Cuesta to recruit her for employment as a factory worker in Taiwan. Dela Cuesta paid Valenciano PhP 20,000 as initial payment on May 20, 1996. On May 30, 1996, she paid Valenciano another PhP 20,000. On August 12, 1996, she paid PhP 15,000, and on August 21, 1996, she paid PhP 7,000. Valenciano turned the May 20 and 30, 1996 payments over to Rodante, who issued receipts for these payments. The payments made on August 12 and 21, 1996 were turned over to Teresita, who also issued receipts for them. These payments were to cover the placement fee and other expenses for the processing of the requirements for the employment of Dela Cuesta in Taiwan.

On May 1, 1996, Valenciano, with Rodante, Teresita, and Rommel Imperial, went to Lian, Batangas to recruit

workers for employment abroad. Candelaria applied for a job as a factory worker in Taiwan when Valenciano went to his residence in Lian. Valenciano asked him for an initial payment of PhP 20,000. On May 30, 1996, Candelaria paid Valenciano PhP 20,000 when she returned to Lian. He then paid PhP 20,000 on June 24, 1996 and PhP 29,000 on July 17, 1996 at Valenciano's residence in Manila. These payments were to cover the placement fee and the expenses for the processing of his passport and other papers connected with his application for employment as a factory worker in Taiwan. The payments made on May 30 and July 17, 1996 were turned over to Rodante, who issued a receipt for the said payments. The payment made on June 24, 1996 was turned over by Valenciano to Teresita.

After the payments were made, Valenciano brought the prospective workers to the office of Middle East International Manpower Resources, Inc. in Pasay City, where they were made to fill out application forms for their employment as factory workers in Taiwan. The complainants were introduced to Romeo Marquez, alias "Rodante Imperial," Teresita Marquez, alias "Teresita Imperial," and Rommel Marquez, alias "Rommel Imperial," whom Valenciano made to appear as the owners of the employment agency. She assured the prospective workers that they could leave for Taiwan within one month from the filing of their applications. During the period material, they have not yet found employment as factory workers in Taiwan.

Valenciano, Rodante, Teresita, and Rommel were charged with the offense of illegal recruitment in large scale, as defined under Article 13(b) of Presidential Decree No. (PD) 442, otherwise known as the Labor Code of the Philippines, as amended, in relation to Art. 38(a), and penalized under Art. 39(c) of the Code, as amended by PD 1920 and PD 2018. The Information reads as follows:

That sometime in May, 1996 to August, 1996, or thereabout, in the City of Pasay, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, representing to have the capacity, authority or license to contract, enlist and deploy or transport workers for overseas employment, conspiring, confederating, and mutually helping each other, did then and there, wilfully, unlawfully and criminally recruit and promise to deploy the herein complainants, namely, Agapito R. De Luna, Allan Ilagan De Villa, Euziel N. Dela Cuesta and Eusebio T. Candelaria, as factory workers in Taiwan, in exchange for placement, processing and other fees ranging from P62,000.00 to P70,000.00 or a total of P271,000.00, without first obtaining the required license and/or authority from the Philippine Overseas Employment Administration (POEA).

CONTRARY TO LAW.[3]

Accused-appellant Valenciano pleaded not guilty and waived the pre-trial. The other three accused remained at large.

The RTC found accused-appellant guilty, the dispositive portion of the decision reading as follows:

WHEREFORE, accused Lourdes Valenciano y Dacuba is found guilty beyond reasonable doubt of the offense of illegal recruitment in large scale as charged in the aforequoted Information; and she is sentenced to suffer the penalty of life imprisonment and to pay a fine of P100,000.00.

She is also ordered to indemnify complainants Agapito R. de Luna, Allan Ilagan de Villa, Euziel N. dela Cuesta and Eusebio T. Candelaria the amounts of P70,000.00, P70,000.00, P62,000.00 and P69,000.00, respectively, as reparation of the damage caused.

No other civil liability may be adjudged against the accused for lack of any factual or legal basis therefor.

SO ORDERED.[4]

Accused-appellant appealed to this Court, but the case was transferred to the CA through a Resolution dated

September 6, 2004, following *People v. Mateo*.^[5]

The CA, in CA-G.R. CR-H.C. No. 01390, affirmed the decision of the trial court finding accused-appellant guilty of the offense charged.

Hence, we have this appeal.

The Issues

Accused-appellant raises the following assignment of errors: (1) the lower court gravely erred in not acquitting accused-appellant on reasonable doubt; and (2) the lower court gravely erred in holding that a conspiracy exists between accused-appellant and her co-accused.

The Court's Ruling

The appeal is without merit.

In her defense, accused-appellant claims that she was an ordinary employee of Middle East International Manpower Resources, Inc., where her other co-accused were the owners and managers. She also denies receiving payment from the complainants; that had she promised employment in Taiwan, this promise was made in the performance of her duties as a clerk in the company. She denies too having knowledge of the criminal intent of her co-accused, adding that she might even be regarded as a victim in the present case, as she was in good faith when she made the promise.

Art. 13(b) of the Labor Code reads:

"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.

Art. 38(a) and (b) of the Labor Code reads as follows:

(a)

Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. x x x

(b)

Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Art. 39(a) provides that the penalty of life imprisonment and a fine of PhP 100,000 shall be imposed if illegal recruitment constitutes economic sabotage as defined above.

The claim of accused-appellant that she was a mere employee of her other co-accused does not relieve her of liability. An employee of a company or corporation engaged in illegal recruitment may be held liable as principal, together with his employer, if it is shown that the employee actively and consciously participated in illegal

recruitment.[6] As testified to by the complainants, accused-appellant was among those who met and transacted with them regarding the job placement offers. In some instances, she made the effort to go to their houses to recruit them. She even gave assurances that they would be able to find employment abroad and leave for Taiwan after the filing of their applications. Accused-appellant was clearly engaged in recruitment activities, notwithstanding her gratuitous protestation that her actions were merely done in the course of her employment as a clerk.

Accused-appellant cannot claim to be merely following the dictates of her employers and use good faith as a shield against criminal liability. As held in *People v. Gutierrez*:

Appellant cannot escape liability by claiming that she was not aware that before working for her employer in the recruitment agency, she should first be registered with the POEA. Illegal recruitment in large scale is *malum prohibitum*, not *malum in se*. Good faith is not a defense.[7]

The claim of accused-appellant that she received no payment and that the payments were handed directly over to her co-accused fails in the face of the testimony of the complainants that accused-appellant was the one who received the money. In spite of the receipts having been issued by her co-accused, the trial court found that payments were directly made to accused-appellant, and this finding was upheld by the CA. Nothing is more entrenched than the rule that where, as here, the findings of fact of the trial court are affirmed by the CA, these are final and conclusive upon this Court.[8] And even if it were true that no money changed hands, money is not material to a prosecution for illegal recruitment, as the definition of "recruitment and placement" in the Labor Code includes the phrase, "whether for profit or not." We held in *People v. Jamilosa* that it was "sufficient that the accused promises or offers for a fee employment to warrant conviction for illegal recruitment." [9] Accused-appellant made representations that complainants would receive employment abroad, and this suffices for her conviction, even if her name does not appear on the receipts issued to complainants as evidence that payment was made.

Neither accused-appellant nor her co-accused had authority to recruit workers for overseas employment. The Philippine Overseas Employment Administration (POEA), through its employee, Corazon Aquino, issued on July 8, 1997 the following certification to that effect:

This is to certify that per available records of this Office, MIDDLE EAST INTERNATIONAL MANPOWER RESOURCES INC., with office address at 2119 P. Burgos St., cor. Gil Puyat Ave., Pasay City represented by SAPHIA CALAMATA ASAAD is a licensed landbased agency whose license expired on October 13, 1996. Per record, said agency has not filed any application for renewal of license.

Per available records, the names of RODANTE IMPERIAL a.k.a. ROMEO MARQUEZ, TERESITA IMPERIAL a.k.a. TERESITA MARQUEZ, ROMMEL MARQUEZ a.k.a. ROMMEL IMPERIAL and LOURDES VALENCIANO do not appear on the list of employees submitted by agency.

This certification is being issued for whatever legal purpose it may serve.[10]

Another certification dated July 9, 1997 stated that accused-appellant in her personal capacity was not licensed or authorized to recruit workers for overseas employment and that any recruitment activities undertaken by her are illegal.[11] Accused-appellant could thus point to no authority allowing her to recruit complainants, as she was not an employee of Middle East International Manpower Resources, Inc. nor was she allowed to do so in her personal capacity. Furthermore, she undertook recruitment activities outside the premises of the office of a licensed recruitment agency, which can only be done with the prior approval of the POEA, and neither she nor her co-accused had permission to do so, as testified by Aquino of the POEA.[12]

Accused-appellant was convicted of Illegal Recruitment in Large Scale, and there could be no other result. As

held in Jamilosa:

To prove illegal recruitment in large scale, the prosecution is burdened to prove three (3) essential elements, to wit: (1) the person charged undertook a recruitment activity under Article 13(b) or any prohibited practice under Article 34 of the Labor Code; (2) accused did not have the license or the authority to lawfully engage in the recruitment and placement of workers; and (3) accused committed the same against three or more persons individually or as a group.[13] x x x

The RTC found accused-appellant to have undertaken recruitment activities, and this was affirmed by the CA. A POEA certification was submitted stating that accused-appellant was not authorized to recruit applicants for overseas employment, and she did not contest this certification. In the present case, there are four complainants: De Luna, De Villa, Dela Cuesta, and Candelaria. The three essential elements for illegal recruitment in large scale are present. Thus, there can be no other conclusion in this case but to uphold the conviction of accused-appellant and apply the penalty as imposed by law.

WHEREFORE, premises considered, we AFFIRM the appealed CA Decision dated July 24, 2007 in CA-G.R. CR-H.C. No. 01390, with no costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Brion, JJ., concur.

[1] Penned by Associate Justice Marina L. Buzon and concurred in by Associate Justices Rosmari D. Carandang and Mariflor P. Punzalan Castillo.

[2] Penned by Judge Alfredo G. Gustilo.

[3] Rollo, p. 3.

[4] Id. at 99-100.

[5] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[6] *People v. Cabais*, G.R. 129070, March 16, 2001, 354 SCRA 553, 561.

[7] G.R. No. 124439, February 5, 2004, 422 SCRA 32, 43-44.

[8] *Springsun Management Systems Corporation v. Camerino*, G.R. No. 161029, January 19, 2005, 449 SCRA 65, 85.

[9] G.R. No. 169076, January 23, 2007, 512 SCRA 340, 352.

[10] Rollo, p. 7.

[11] Id.

[12] Id. at 9-10.

[13] *Supra* note 9, at 351.

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