

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JIMMY ANG @ ANG TIAO LAM AND HUNG CHAO NAN, APPELLANT.

G.R. No. 181245. August 06, 2008

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This petition for review on certiorari assails the September 20, 2007 Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 02374, affirming the Judgment[2] of the Regional Trial Court of Manila, Branch 12, in Crim. Case No. 00-184050, finding appellant Jimmy Ang @ Ang Tiao Lam & Hung Chao Nan guilty of illegal recruitment in large scale and sentencing him to suffer the penalty of life imprisonment and to pay a fine of One Hundred Thousand Pesos (P100,000.00) plus actual damages,[3] with the modification that appellant is further ordered to pay legal interest on the award of actual damages from the time of the filing of the Information until fully paid.

The facts of the case are as follows:

On June 28, 2000, appellant was charged with violation of Section 6 (l) and (m) of Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995. The accusatory portion of the Information reads:

That in or about and during the period comprised between November 1999 and June 23, 2000, inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating with another whose true name, real identity and present whereabouts is unknown and mutually helping each other, representing themselves to have the capacity to contract, hire, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully, for a fee, recruit and promise employment as factory workers in Taiwan, and in consideration thereof charge and accept, directly or indirectly from the following:

PHEX M. GARLEJO

P 20,000.00

EDNA PARAGAS

P115,000.00

SPOUSES MAGDALENO DIOSDADO S.

ORDONIO & MARLENE G. ORDONIO

P150,000.00

ELLEN B. CANLAS

P 50,000.00

as placement and/or processing fee for overseas employment which amounts are greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment and failed to actually

deploy them without valid reasons and failed to reimburse expenses incurred by them, despite demands and in spite of the fact that the deployment of the said PHEX M. GARLEJO, EDNA PARAGAS, Sps. MAGDALENO DIOSDADO S. ORDONIO & MARLENE G. ORDONIO and ELLEN B. CANLAS did not actually take place without their fault.

Contrary to law.[4]

Appellant pleaded not guilty when arraigned.

Ellen Canlas testified that on January 17, 2000, she was introduced to appellant who promised her a job as factory worker in Taiwan. Canlas was interested in working abroad thus, she gave appellant the amount of P50,000.00 which would be used allegedly to defray the expenses for the processing of her papers. Appellant issued Canlas a receipt for P50,000.00.

Edna Paragas also testified that she met appellant in November, 1999. Lured by the promise of a job in Taiwan, Paragas gave appellant a total amount of P115,000.00 for which she was issued a receipt. She was told that the money would be spent for the processing of her papers.

Marlene Ordonio also applied for a job in Taiwan through appellant. She gave him the amount of P150,000.00 to be used allegedly for the processing of her papers. Appellant issued a receipt for the said amount.

Phex M. Garlejo also paid P20,000.00 to appellant who promised him a job as a factory worker in Taiwan.

When appellant failed to deploy the private complainants as factory workers in Taiwan, they decided to file a complaint before the Philippine Overseas Employment Agency (POEA) who endorsed them to the Philippine Anti-Organized Crime Task Force (PAOCTF). Since appellant was asking for additional funds from Garlejo, an entrapment operation was planned.

On June 23, 2000, Canlas, Paragas, Ordonio and Garlejo met appellant inside Universal Restaurant along Rizal Avenue, Manila. After Garlejo handed to appellant the envelope containing the marked money, appellant issued a receipt for P30,000.00. Thereafter, he proceeded to count the money whereupon he was arrested by the PAOCTF operatives.

Appellant, who was the sole witness for the defense, testified that he was a factory worker in Taiwan. Sometime in October 1999, he met Erolyn Bello and Marlene Ordonio who requested him to look for a broker in Taiwan who will affiliate with a local recruitment agency for the deployment of factory workers. When he returned to Taiwan, he allegedly met a certain Leo Liao who agreed to act as broker.

He admitted meeting private complainants and receiving money from them. However, he alleged that the amounts were in payment for the expenses he incurred in scouting for a broker in Taiwan. He also argued that private complainants did not meet Liao, the alleged broker, because during their scheduled meeting, the private complainants suddenly felt shy.

Finally, he alleged that during the entrapment operation, he was forced by the PAOCTF to sign the acknowledgement receipt; and that he never received the money because he was handcuffed.

After trial on the merits, the trial court rendered judgment, the dispositive portion of which provides:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered finding accused JIMMY ANG also known as ANG TIAO LAM and HUNG CHAO-NAN guilty beyond reasonable doubt of the crime of Illegal Recruitment (in Large Scale). Accordingly, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of One Hundred Thousand Pesos (P100,000.00). Moreover, he is hereby ordered to pay actual damages, to the complainants in the following amounts, to wit:

PHEX M. GARLEJO

P 20,000.00

EDNA PARAGAS

P115,000.00

SPOUSES MAGDALENO DIOSDADO S.

ORDONIO & MARLENE G. ORDONIO

P150,000.00

ELLEN B. CANLAS

P 50,000.00

SO ORDERED.[5]

Appellant filed an appeal before the Court of Appeals raising the following as errors:

- THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.
- THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED SINCE NO EVIDENCE WAS PRESENTED BY THE PROSECUTION SHOWING THAT HE HAD NO LICENSE OR AUTHORITY TO RECRUIT BY THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE).[6]

In his Brief, appellant conceded that the prosecution satisfactorily established that he engaged in the act of recruitment and placement of workers for deployment abroad; however, he argued that he cannot be held liable for illegal recruitment because it was not shown that he has not secured a license or authority to recruit or deploy workers.[7]

The Office of the Solicitor General (OSG) countered that the testimony of the PAOCTF agent's that upon investigation with the POEA, they discovered that appellant is a non-licensee or non-holder of authority to recruit and deploy workers abroad, is sufficient proof that indeed, he is not authorized to engage in recruitment activities. The OSG also recommended that the penalty of fine imposed upon appellant be increased from P100,000.00 to P500,000.00 and that the award of actual damages should earn interest from the time of the filing of the information until fully paid.

On September 20, 2007, the Court of Appeals rendered the herein assailed Decision, the dispositive portion of which provides:

WHEREFORE, the instant appeal is DISMISSED for lack of merit. The judgment of the court a quo dated April 5, 2006 is AFFIRMED with the MODIFICATION that accused-appellant is ORDERED to pay the private complainants legal interest on the following amounts from the time of the filing of the Information until fully paid:

1. PHEX M. GARLEJO

P 20,000.00

2. EDNA PARAGAS

P115,000.00

3. SPOUSES MAGDALENO DIOSDADO S.

ORDONIO & MARLENE G. ORDONIO

P150,000.00

4. ELLEN B. CANLAS

P 50,000.00

SO ORDERED.[8]

Hence, the instant petition.

On March 5, 2008, this Court resolved to notify the parties to file their respective supplemental briefs, if they so desire, within 30 days from notice.[9] On May 2, 2008, appellant filed a Manifestation and Motion that he is dispensing with the filing of the supplemental brief.[10] On May 7, 2008, the OSG likewise manifested that it is no longer filing its supplemental brief. Hence, this case is now deemed submitted for resolution.

The petition lacks merit.

Appellant was charged with violation of Section 6 (l) and (m) of Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995, which provides:

SEC. 6. Definition. - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers and includes referring contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non holder, licensee or holder of authority:

x x x x

(l) Failure to actually deploy without valid reason as determined by the Department of Labor and Employment; and

(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault.

x x x x. (Emphasis supplied)

Appellant conceded in his Brief that the prosecution satisfactorily established that he engaged in the act of recruitment and placement of workers for deployment abroad. It was likewise proven that the private complainants were never deployed to Taiwan as factory workers. Moreover, it was also settled that he received certain amounts allegedly to be used to cover the expenses for the documentation and processing of the complainants' papers, but said amounts were never reimbursed to them despite their non-deployment and repeated demands. However, appellant argued that he cannot be held liable for illegal recruitment because it was not shown that he has not secured a license or authority to recruit or deploy workers.

This contention lacks basis. It is clearly provided in Section 6 of Republic Act No. 8042 that any person, whether

a non-licensee, non-holder, licensee or holder of authority may be held liable for illegal recruitment for certain acts as enumerated in paragraphs (a) to (m) thereof. Since appellant was charged with violation of Sec. 6 (l) and (m), there is no more need to prove whether he is a licensee or not because it is no longer an element of the crime. The trial court and the Court of Appeals therefore correctly found appellant guilty as charged.

In the instant case, appellant is guilty of illegal recruitment in large scale because it was committed against the four private complainants. This is in accordance with the penultimate paragraph of Section 6 of Republic Act No. 8042 which provides, thus:

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The trial court, as affirmed by the Court of Appeals, imposed upon the appellant the penalty of life imprisonment and a fine of P100,000.00 plus actual damages, with interest thereon. However, the fine of P100,000.00 should be increased to P500,000.00 pursuant to Section 7(b) of Republic Act No. 8042 which reads, thus:

(b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

Illegal recruitment committed by a syndicate or in large scale is considered an offense involving economic sabotage.

WHEREFORE, the petition is DENIED. The assailed Decision of the Court of Appeals dated September 20, 2007 in CA-G.R. CR-H.C. No. 02374, affirming with modification the Judgment of the Regional Trial Court of Manila, Branch 12, in Crim. Case No. 00-184050, finding appellant Jimmy Ang @ Ang Tiao Lam & Hung Chao Nan guilty of illegal recruitment in large scale and sentencing him to suffer the penalty of life imprisonment and to pay actual damages with legal interest thereon, is AFFIRMED with MODIFICATION that the penalty of fine is INCREASED to P500,000.00.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 2-21; penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Lucenito N. Tagle and Sixto C. Marella, Jr.

[2] CA rollo, pp. 18-54; penned by Judge Ruben Reynaldo G. Roxas.

[3] In the amounts of P20,000.00, P115,000.00, P150,000.00 and P50,000.00 in favor of private complainants Phex M. Garlejo, Edna Paragas, Sps. Magdaleno S. Ordonio and Marlene G. Ordonio and Ellen B. Canlas, respectively.

[4] CA rollo, p. 8.

[5] Id. at 53.

[6] Id. at 74-75.

[7] Id. at 76.

[8] Rollo, p. 21.

[9] Id. at 26.

[10] Id. at 27.

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