

ANGELITA DELOS REYES FLORES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 185614. February 05, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court, filed by petitioner Angelita delos Reyes Flores, assails the Court of Appeals (CA) Decision[1] dated July 10, 2008 and its Resolution[2] dated December 9, 2008 in CA-G.R. CR No. 30105.

The facts of the case are as follows:

Sometime in 2000, private complainants Felix Cornejo (Felix), Jonathan Caibigan (Jonathan) and Blesilda Caibigan (Blesilda) met petitioner through Simon Onda (Simon). Petitioner told private complainants that, as a member of Club Panoly Resorts International (Club Panoly), she could sponsor them in going to Italy to work as domestic helpers or drivers. She, thus, required each of them to produce P100,000.00 as processing fee; P50,000.00 for plane ticket; and \$3,000.00 as show money.[3]

After raising enough money, private complainants met with petitioner on three separate occasions, at which Felix paid P100,000.00;[4] while Jonathan and Blesilda paid a total amount of P168,000.00 (or P84,000.00 each).[5]

Petitioner, however, failed to make good her promise. This prompted private complainants to inquire at Club Panoly about the status of their applications. They were informed by Club Panoly that it did not allow or authorize its members to use their membership to recruit workers for possible placement abroad.[6] Upon further inquiry with the Philippine Overseas Employment Administration, private complainants learned that petitioner was not a licensed recruiter of workers for overseas employment.[7] They forthwith demanded from petitioner the return of their money and documents.[8] As their demand remained unheeded, private complainants filed criminal cases against petitioner.

In separate Informations, petitioner was charged before the Regional Trial Court (RTC) of Pasay City[9] with four (4) counts of estafa for acts committed against private complainants and Simon. The cases were docketed as Criminal Case Nos. 01-2318 to 01-2321. When arraigned, petitioner pleaded "Not Guilty" to all the charges.

To the charges, petitioner interposed the defense of denial, alleging that she never promised them employment abroad. She, likewise, denied having received money from them.[10]

After trial, the RTC rendered a decision finding petitioner guilty beyond reasonable doubt of three (3) counts of estafa. In Criminal Case Nos. 01-2318 and 01-2319, petitioner was sentenced to suffer the indeterminate penalty of 12 years of prision mayor as minimum to 14 years of reclusion temporal as maximum, for each count; and in Criminal Case No. 01-2321, she was meted the indeterminate penalty of 12 years of prision mayor as minimum to 15 years of reclusion temporal as maximum. Petitioner was, likewise, ordered to indemnify Jonathan and Blesilda P84,000.00 each, and Felix P100,000.00, as actual damages.[11]

Earlier, in an Order dated June 27, 2003, the case filed by Simon[12] was dismissed for lack of sufficient evidence.

On appeal, the CA affirmed petitioner's conviction but modified the minimum and maximum terms of the indeterminate penalties imposed by the trial court.[13]

Petitioner now comes before this Court on the sole issue of:

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN FINDING PETITIONER GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.[14]

Petitioner insists that she did not make any false pretense or fraudulent act, nor did she employ any means to induce private complainants to part with their money. She explains that she only promised that she could help them facilitate their visa applications, but did not misrepresent that she could deploy them for work in Italy. Finally, in her attempt to exculpate herself, she points to a certain Glenda Pesigan who made such misrepresentations and received money from private complainants.

We find no reason to reverse petitioner's conviction. Hence, we affirm, but with modification.

Findings of fact of the trial court on the credibility of witnesses and their testimonies are generally accorded great respect by the appellate court. The assessment of the credibility of witnesses is a matter best left to the trial court because it is in a position to observe that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied the appellate court.[15]

Article 315(2)(a) of the Revised Penal Code (RPC) punishes estafa, committed as follows:

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions; or by means of other similar deceptions.

The elements of the crime are: (1) the accused defrauded another by abuse of confidence or by means of deceit; and (2) the offended party or a third party suffered damage or prejudice capable of pecuniary estimation.[16]

Here, it has been sufficiently proven that petitioner represented herself to private complainants as capable of sending them to Italy for employment, even if she did not have the authority or license for the purpose. Undoubtedly, it was this misrepresentation that induced private complainants to part with their hard-earned money in exchange for what they thought was a promising future abroad.[17] The petitioner's act clearly constitutes estafa under the above-quoted provision.

However, while we affirm the conviction for three (3) counts of estafa, we modify the penalty imposed by the CA, as correctly recommended by the Office of the Solicitor General in its Comment.[18]

Article 315 of the RPC fixes the penalty for estafa, viz.:

Art. 315. Swindling (estafa). - x x x.

1[st]. The penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos; and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the

other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

In Criminal Case No. 01-2318, the amount involved is P84,000.00, which exceeds P22,000.00. Accordingly, the penalty should be imposed in its maximum period, which is six (6) years, eight (8) months and twenty-one (21) days to eight (8) years, to which we should add one year for every additional P10,000.00, provided the total penalty does not exceed 20 years. Hence, since the amount of the fraud exceeds P22,000.00 by P62,000.00, a total of six (6) years should be added to the above-stated maximum period.

In Criminal Case No. 01-2319, the amount involved is also P84,000.00. Thus, the same penalty should be imposed.

In Criminal Case No. 01-2321, since the amount defrauded is P100,000.00, which exceeds P22,000.00 by P78,000.00, seven (7) years should be added to the maximum period.

Applying the Indeterminate Sentence Law, the maximum term of the indeterminate penalty shall be that which could be properly imposed under the RPC as discussed above. On the other hand, the minimum term of the indeterminate sentence should be within the range of the penalty next lower in degree than that prescribed by the Code, which is *prision correccional* in its minimum and medium periods, which ranges from six (6) months and one (1) day to four (4) years and two (2) months.[19]

WHEREFORE, the Court of Appeals Decision dated July 10, 2008 and Resolution dated December 9, 2008, in CA-G.R. CR No. 30105, are MODIFIED with respect to the indeterminate penalties imposed on petitioner for three (3) counts of *estafa*, to wit:

(1) In Criminal Case Nos. 01-2318 and 01-2319, petitioner is sentenced to an indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum, to fourteen (14) years of *reclusion temporal* as maximum, for each of the two (2) *estafa* cases.

(2) In Criminal Case No. 01-2321, she is sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum, to fifteen (15) years of *reclusion temporal* as maximum.

In all other respects, the assailed decision and resolution are AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Velasco, Jr., Peralta, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Rebecca de Guia-Salvador and Vicente S.E. Veloso, concurring; rollo, pp. 81-95.

[2] Id. at 107-108.

[3] Rollo, pp. 83-84.

[4] Felix paid P100,000.00 in three installments: P35,000.00 in May 2000; P30,000.00 on June 6, 2000; and P35,000.00 on June 27, 2000.

[5] Jonathan and Blesilda paid P168,000.00 in three installments: P68,000.00 in May 2000; P50,000.00 on June 6, 2000; and P50,000.00 on June 27, 2000.

[6] Rollo, pp. 85-86.

[7] Id. at 86.

[8] Id.

[9] Raffled to Branch 117.

[10] Rollo, p. 87.

[11] Id. at 87-88.

[12] Docketed as Criminal Case No. 01-2320.

[13] In Criminal Case Nos. 01-2318 and 01-2319, petitioner was sentenced by the CA to suffer the indeterminate penalty of two (2) years, eleven (11) months and eleven (11) days of prision correccional, as minimum, to twelve (12) years, eight (8) months and twenty-one (21) days of reclusion temporal, as maximum, for each count. In Criminal Case No. 01-2321, petitioner was meted the indeterminate penalty of two (2) years, eleven (11) months and eleven (11) days of prision correccional, as minimum, to thirteen (13) years, eight (8) months and twenty-one (21) days of reclusion temporal, as maximum.

[14] Rollo, p. 19.

[15] *People v. Temporada*, G.R. No. 173473, December 17, 2008, 574 SCRA 258, 282.

[16] Id. at 282-283.

[17] *Lapasaran v. People*, G.R. No. 179907, February 12, 2009, 578 SCRA 658; *People v. Comila*, G.R. No. 171448, February 28, 2007, 517 SCRA 153; *People v. Ballesteros*, 435 Phil. 205 (2002).

[18] Rollo, pp. 352-376.

[19] *Lapasaran v. People*, supra note 17, at 665.

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