

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEY BODOZO Y BULA AND NIMFA BODOZO Y NERI, ACCUSED-APPELLANTS.

G.R. No. 96621. October 21, 1992

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

This is an appeal[1] interposed by accused Joey Bodozo and Nimfa Bodozo, husband and wife, from the decision[2] of the Regional Trial Court, National Capital Judicial Region, Branch XLIX, Manila, in Criminal Case Nos. 89-73608-SCC to 89-73613-SCC, finding them guilty beyond reasonable doubt of the crime of illegal recruitment defined in and penalized by Article 13 in relation to Article 38 of the Labor Code, as amended, and sentencing each of them to suffer the penalty of Life Imprisonment.

Accused-appellants were charged before the Regional Trial Court with five (5) counts of Estafa (docketed as Criminal Case No. 89-73609 to 89-73613) and a separate charge for Illegal Recruitment (docketed as Criminal Case No. 89-73608).

With regards to the charge of Estafa, accused-appellants were acquitted of the crime charged. Hence this appeal refers only to the crime of illegal recruitment.

On May 30, 1989, the Assistant Prosecutor filed the following information for illegal recruitment against Joey Bodozo and Nimfa Bodozo, to wit:

"The undersigned accuses JOEY BODOZO y BULA and NIMFA BODOZO y NERI of a violation of Article 38 (a), Presidential Decree No. 1412, amending certain provisions of Book I, Presidential Decree No. 442 (New Labor Code of the Philippines), in relation to Article 13 (b) and (c) of said Code, as further amended by Presidential Decree No. 1693 and Presidential Decree No. 1920, committed in a large scale, as follows:

"That in or about and during the period comprised between October 3, 1988 and April 8, 1989, in the City of Manila, Philippines, the said accused conspiring and confederating together and mutually helping each other, representing themselves to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there wilfully and unlawfully, for a fee, recruit and promise employment/job placement abroad to Domingo Obiacoro y Gagtan, Ludovico Gagtan y Lopez, Angelino Obiacoro y Aspiras, Prudencio Renon y Lopez and Fernando Gagtan y Lopez, without first having secured the required license or authority from the Department of Labor and Employment.

Contrary to Law".[3]

On arraignment, accused-appellants, Joey Bodozo and Nimfa Bodozo, assisted by their counsel de oficio, pleaded not guilty to the information.

On July 6, 1990, the trial court rendered judgment, the decretal portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered in these cases as follows:

1. In *People versus Joey Bodozo and Nimfa Bodozo*, Criminal Case No. 89-73608, the Court finds both Accused guilty, beyond reasonable doubt, of the crime of illegal recruitment defined in and penalized by Article 13 in relation to Article 38 of the Labor Code, as amended, and hereby metes on each of them the penalty of LIFE IMPRISONMENT and hereby condemns each of them "to pay" a fine of P100,000.00, without subsidiary imprisonment in case of insolvency.

2. In *People versus Joey Bodozo and Nimfa Bodozo*, Criminal Case Nos. 89-73609 to 89-73613, the Court finds that the Prosecution failed to establish the guilt of the Accused beyond reasonable doubt for the crimes charged therein and hereby acquits them of said charges.

Both Accused are hereby ordered to refund, jointly and severally, to the following Private Complainants the amounts appearing opposite their respective names, as follows:

1. Prudencio Renon ----- P 19,000.00
2. Fernando Gagan ----- 20,000.00
3. Angelino Obiacoro ----- 20,000.00
4. Ludovico Gagan ----- 10,000.00

With costs against the accused.

SO ORDERED."[4]

Hence the instant appeal by the accused Joey Bodozo and Nimfa Bodozo.

Accused-appellants raised the following assignment of errors, to wit:

I

IN FAILING TO APPRECIATE THE QUANTUM OF EVIDENCE IN FAVOR OF THE CLAIM OF BOTH ACCUSED THAT THEY ONLY HELPED THE PRIVATE COMPLAINANTS APPLIED FOR JOB ABROAD, THAT THEY WERE NOT RECRUITERS.

II

IN HOLDING THAT THE PROSECUTION HAS MARSHALLED THE DEGREE OF PROOF WHICH PRODUCED THE CONVICTIONS OF BOTH ACCUSED.

The main thrust of this case hinges on whether or not the guilt of the accused-appellants have been proven beyond reasonable doubt.

As found by the trial court, the facts as could be gleaned from the evidence on record, were as follows:

When the accused Nimfa Bodozo was in Luna, La Union, she told the private complainants, who are simple farmers, and at the time unemployed, that she was recruiting workers for employment in Saudi Arabia and Singapore. The accused Nimfa Bodozo required the five (5) private complainants to submit to her, in addition to their respective applications, NBI clearances and medical certificates in connection with their applications. The private complainants Prudencio Renon and Fernando Gagan were told by the accused Nimfa Bodozo that their salary in Saudi Arabia was US\$200.00 a month, while the accused Nimfa Bodozo assured private complainants, Angelino Obiacoro, Ludovico Gagan and Domingo Obiacoro that they were going to be paid, by their respective employers, in Singapore, the amount of Singapore 16.00 dollars a day. The private complainants Prudencio Renon and Fernando Gagan submitted their application forms, duly filled up, passports, their NBI clearances and medical certificates to the accused Nimfa Bodozo in their residence at

Quirino Avenue, Manila. Domingo Obiacoro, Angelino Obiacoro and Ludovico Gagtan likewise submitted to the accused their NBI clearances and medical certificates as required by the accused. Moreover, the accused demanded from the private complainant Prudencio Renon the amount of P19,000.00 in connection with his application for employment abroad. Of the said amount, P15,000.00 was to be used by the accused as processing fee for the application and papers of the private complainant for his employment abroad. Prudencio Renon paid to the accused Nimfa Bodozo, on October 3, 1988, the amount of P15,000.00 for which the said accused signed a Receipt.[5] The mother of Prudencio Renon paid the balance of P4,000.00 to the same accused but the latter did not issue any receipt for said amount.

The accused Nimfa Bodozo demanded from the private complainant Fernando Gagtan the amount of P20,000.00 in connection with his application for employment abroad. Fernando Gagtan paid to the accused Nimfa Bodozo, also on October 3, 1988, the amount of P12,000.00 for which the said accused signed and issued Receipts[6] and the amount of P8,000.00 through Maxima Gagtan the mother of Fernando Gagtan, for which the accused Nimfa Bodozo issued a Receipt dated April 8, 1989.[7]

The accused Nimfa Bodozo demanded from Domingo Obiacoro the amount of P20,000.00 in connection with his application for employment abroad. Of the amount, P10,000.00 will be used for the purchase of a plane ticket for the private complainant for Singapore and the balance of P10,000.00 was to be used as placement fee for the application of the private complainant for employment abroad. Domingo Obiacoro paid P10,000.00 to the accused Nimfa Bodozo in the house of the friend of the accused in Luna, La Union but the accused did not issue any Receipt for the amount at the time. Domingo Obiacoro paid the balance of P10,000.00 to the accused Nimfa Bodozo, in the presence of the accused Joey Bodozo in the house of the accused at President Quirino Avenue, Manila. The accused Joey Bodozo later signed and issued a Receipt for the said amount of P20,000.00.[8]

The accused Joey Bodozo demanded from Angelino Obiacoro the payment of P20,000.00 in connection with the latter's application for employment abroad. Angelino Obiacoro gave to the accused Joey Bodozo the amount of P10,000.00 in two (2) installments on different occasion for which the accused Joey Bodozo later signed and issued a Receipt.[9]

The accused Joey Bodozo likewise demanded from Ludovico Gagtan the payment of the amount of P20,000.00 in connection with his application for employment abroad. Ludovico Gagtan, through his mother, Maxima Gagtan, gave to the accused Nimfa Bodozo the amount of P10,000.00 but the latter failed to issue any receipt at that time. However, considering that the private complainant did not have the amount of P10,000.00 to pay the balance of the P20,000.00 demanded by the accused, but the latter offered to advance the amount for the account of private complainant for which the latter and his mother, Maxima Gagtan, signed a "Promissory Note" in favor of the accused Joey Bodozo.[10] However, the accused added the amount of P4,000.00 to the P10,000.00 purportedly advanced by the accused for the private complainant by way of interests on said loan. The accused Nimfa Bodozo later signed and issued a Receipt[11] for the amount of P10,000.00 remitted to her by the mother of Ludovico Gagtan".[12]

After a careful scrutiny of the evidence, We found no cause to disapprove the facts as stated above and we adopt the same as Our findings of facts. In the absence of any substantial proof that the trial court's decision was grounded entirely on speculations, surmises or conjectures, the same must be accorded full consideration and respect. After all, the trial court is in a much better position to observe and correctly appreciate the respective parties' evidence as they were presented.[13]

The crime of illegal recruitment is defined under Article 38 (a) in relation to Articles 13 (b) and 34, and penalized under Article 39 of the Labor Code as amended by PD 1920 and PD 2018.

Article 38 (a) of the Labor Code provides as follows:

Art. 38. Illegal Recruitment. - (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. The Ministry of Labor and Employment or any law enforcement officer may initiate complaints under this Article. (Underscoring Ours).

Under Article 13 (b) Recruitment and Placement is defined as:

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. (Underscoring Ours).

It should be noted that any of the acts mentioned in Article 13 (b) can lawfully be undertaken only by licensees or holders of authority to engage in the recruitment and placement workers.

The crime of illegal recruitment has two elements:

1. The offender is a non-license or non-holder of authority to lawfully engage in the recruitment and placement of workers; and
2. That the offender undertakes either any recruitment activities defined under Article 13(b), or any prohibited practices enumerated under Article 34 of the Labor Code.

In this case at bar, it is undisputed that accused-appellants Joey Bodozo and Nimfa Bodozo are neither licensed nor authorized to recruit workers for overseas employment as shown by the certification^[14] issued by the Philippine Overseas Employment Administration (POEA).

Accused-appellants want this Court to believe that they merely helped private complainants apply for overseas employment. Evidences on record, however, show otherwise. Accused-appellants not only asked private complainants to fill up application forms but also to submit to them their NBI clearances, passports and medical certificates. In addition thereto, accused-appellants collected payment for processing fee and other sundry expenses from private complainants, all of which constitutes acts of recruitment within the meaning of the law.

Accused-appellants point to a certain Belen Hernandez, a manager of Mogleo International Management and Service Contractor a duly registered and licensed recruiter, and Jing Evangelista of Ultragen, Inc. as the persons who were responsible for the recruitment of private complainants. If such allegations were true, why did accused-appellants not present any one of them as witness to corroborate their claim? For reasons only known to them, they chose to suppress such testimony as evidence and instead risked the adverse inference and legal presumption that "evidence wilfully suppressed would be adverse if produced".^[15]

Besides, if it was Belen Hernandez and Jing Evangelista who were the recruiters, why did accused-appellants issue the receipts^[16] acknowledging payments made by private complainants?

Accused-appellants Nimfa Bodozo alleged that she was forced to issue and sign receipts marked as Exhibits J and N because private complainants Prudencio Renon and Fernando Gagan were mad and refused to leave the house. On the other hand, accused-appellant Joey Bodozo claimed that he, too, was forced to issue and sign Exhibits L and E at Kalaw Street, Ermita, Manila because private complainants Angelino Obicoro and Domingo Obicoro would kill him.

We find accused-appellants' alibi not convincing. Such allegations are self-serving. No evidence of force was represented by accused-appellant Nimfa Bodozo to bolster her claim that she was forced except to state that she was afraid of private complainants' anger. In the case of accused-appellant Joey Bodozo, it will be noted that the

alleged force happened in a busy public street. Neither did the accused-appellants file any case against private complainants for forcing them to sign and issue said receipts. At most, their claim of force may be said to be merely an afterthought to exculpate themselves from the charges levelled against them by private complainants.

Moreover, We agree with the findings of the trial court that no improper motives may be attributed to private complainants to charge accused-appellants with a serious crime as illegal recruitment.

Records show that private complainants are simple farmers, unemployed and natives of La Union, who see employment abroad as a means to alleviate their living conditions, only to find out that they have been the victims of illegal recruiters preying on poor workers. It has been held that "the absence of evidence as to an improper motive actuating the principal witnesses of the prosecution strongly tends to sustain no improper motive existed and their testimony is worthy of full faith and credit." [17]

Lastly, under Article 38 of the Labor Code, as amended, the crime of illegal recruitment is qualified when the same is committed against three (3) or more persons, individually or as a group. Accused-appellant having committed the crime of illegal recruitment against Prudencio Renon, Fernando Gagan, Angelino Obiadoro, Domingo Obiadoro and Ludovico Gagan, the penalty of life imprisonment and the fine of P100,000.00 (Article 39 (a) Labor Code of the Philippines as amended) was correctly imposed by the trial court.

In the light of foregoing findings and for reasons indicated, We hold that the evidence was sufficient to sustain the verdict finding the accused guilty of the crime of illegal recruitment as charged. Accordingly, the judgment of the Regional Trial Court is hereby AFFIRMED with no pronouncement to costs.

SO ORDERED.

Feliciano, Regalado, and Nocon, JJ., concur.
Narvasa, C.J., (Chairman), on official leave.

[1] Counsel for appellant - Hon. Solicitor General Counsel for Appellee - Atty. Augusto J. Tobias.

[2] Penned by Judge Romeo J. Callejo.

[3] Rollo, p. 7.

[4] Rollo, pp. 59-60.

[5] Exhibits "N" and "N-1".

[6] Exhibit "J".

[7] Exhibits "J" and "J-1".

[8] Exhibits "L" and "L-1".

[9] Exhibits "E" and "E-1".

[10] Exhibits "1" to "1-B".

[11] Exhibits "H" and "H-1".

[12] Rollo, pp. 48-49; Decision, pp. 22-23.

[13] People of the Phils., vs. Martinada, 194 SCRA 36 (1991).

[14] Exhibits "P", "P-1", "Q" and "Q-1".

[15] People of the Phils. vs. Damaso, 190 SCRA 595 (1990).

[16] Exhibits E, E - 1, H, H-1, L, L -1, N, and N -1.

[17] Araneta, Jr. vs. Court of Appeals; Bautista vs. Court of Appeals, 187 SCRA 123 (1990).

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