

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALICIA B. GAOAT, ACCUSED-APPELLANT.

G.R. No. 97028. May 21, 1993

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

On September 22, 1987, the appellant, Alicia B. Gaoat, and two (2) others -- Magdalena Abenir Irons and Domingo B. Babol -- were charged before the Regional Trial Court of Manila with "the crime of violation of Article 38 (1) of Presidential Decree No. 1412 in relation to Article 13 (b) (c) of the New Labor Code of the Philippines, as amended **." The case was docketed as Criminal Case No. 87-57826.

The acts allegedly constituting the crime are set out in the information as follows:

"That in or about and during the period comprised between June, 1986 and February, 1987, inclusive, in the City of Manila, ** the said accused, conspiring and confederating together and helping one another, willfully, unlawfully, and feloniously defraud LUCIA BERNARDO, FROILAN BRIONES and REYNALDO VALIDOR, who are applicants for Stewardess, Utility Galley and Utility Man in Miami, Florida, U.S.A., by then and there collecting the sum of P15,300.00, P19,300.00 and P15,000.00, respectively, which are P10,300, P14,300.00 and P10,000.00, respectively, more than the maximum placement and documentation fees of P5,000.00 to cover all costs and services relative to their recruitment pursuant to M.C. No. 5, Series of 11985 which is allowed by the POEA for them to collect from the said LUCIA BERNARDO, FROILAN BRIONES and REYNALDO VALIDOR, to the damage and prejudice of the said complainants in the aforesaid amount of P10,300.00, P14,300.00 and P10,000.00, respectively."

On the same day, September 22, 1987, three (3) other informations were separately filed against the three aforementioned individuals, Gaoat, Irons and Babol. These were docketed as Criminal Cases Numbered 87-57827, 87-57828, and 87-57829. The indictments basically accused them of receiving money from the same persons already named, Lucia Bernardo, Froilan Briones and Reynaldo Validor -- in the amounts stated in the information just quoted -- upon the "false and fraudulent" representations and assurances that "they had the power and capacity to recruit and employ said ** (said persons) and could facilitate the processing of the pertinent papers in connection therewith," which money they did thereafter "misappropriate, misapply and convert to their own personal use and benefit to the damage and prejudice of ** (their victims) ** **."

And in October, 1987, three (3) more informations were filed against Alicia B. Gaoat, charging her with estafa, allegedly committed in conspiracy "with others whose true names, identities and present whereabouts are still unknown." Specifically, she was charged with having, on different occasions in 1986, obtained money from Priscilla de Leon y Lautrizo, Reynaldo Singuya y Gabriel, and John Fortes y Co thru "false manifestations and fraudulent representations that she had the power and capacity to recruit and employ ** (persons applying therefor) and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof," but once in possession of the money, she "feloniously misappropriated, misapplied and converted (it) to her own personal use and benefit to the damage and prejudice of ** (her victims)." The cases

were respectively docketed as Criminal Cases Numbered 87-58151, 87--58085, 87-58086,

Only Alicia B. Gaoat was arrested in connection with these seven (7) indictments. None of her co-accused was ever apprehended or brought to trial. As far as is known, her co-defendants have remained at large to this day.

On being arraigned, Alicia Gaoat entered a plea of not guilty in relation to all the seven (7) cases against her, with the assistance of counsel de parte. The cases were subsequently consolidated before Branch 49 of the Regional Trial Court of Manila[1] and, by agreement of the parties, a joint trial was conducted.

On February 3, 1989, the Trial Court rendered judgment the dispositive portion of which reads as follows:[2]

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

1. In Criminal Case No. 87-57826, the Court finds the Accused Alicia Gaoat guilty beyond reasonable doubt, as principal, for the crime of illegal recruitment, in a large scale, defined in Article 39 in relation to Articles 32, 34 and 38 of the Labor Code, as amended, and in relation to Memorandum Order No. 5, Series of 1985 and Book I, Rule II, Section I (cc) of the Rules of the Philippines Overseas Employment Administration and hereby imposes on her the penalty of LIFE IMPRISONMENT with all the accessory penalties of the law and to pay a fine of P100,000.00, without subsidiary imprisonment in case of insolvency.

2. Criminal Cases Nos. 87-57827 to 87-57829 are hereby dismissed only as against the Accused Alicia Gaoat.

3. The Accused Alicia Gaoat is hereby acquitted of the crime charged in Criminal Cases No. 87-58158, 87-58086 and 87--58085 for failure of the Prosecution to prove the guilt of the Accused beyond reasonable doubt for said crime.

The Court cannot render judgment on the civil liability of the Accused in favor of the Private Complainants because the Department of Labor and Employment has already ordered Roan Philippines, Inc. and First Integrated Bonding and Insurance Company, Inc., to pay, jointly and severally, the Private Complainants their monetary claims against the said corporations (Exhibit 'D')."

Gaoat filed a motion for reconsideration of the verdict on February 20, 1989. The motion was denied. Hence, the appeal at bar, "only with respect to the order of conviction," as her counsel is careful to point out. To gain acquittal, she strives to make the following points, to wit:[3]

1) she was "only obeying and acting [on] the orders of her superiors (in Roan Philippines, Inc.);" indeed, "she wanted to resign from the company but was overtaken by events beyond her control;"

2) being a mere cashier, she was never informed of the circular allegedly violated: "Memorandum Circular No. 5 of the POEA (Re: Overcharging of Placement Fees)," and insofar as it is made to apply to her, "the law is oppressive and unjust;"

3) assuming she is responsible for the crime charged, the milder form of responsibility should have been imposed on her.

Alicia Gaoat was the cashier of Roan Philippines, Inc.,[4] a recruitment or manning agency. The latter's operations were suspended by the Philippine Overseas Employment Administration in the first quarter of 1987.[5] At that time, Gaoat was receiving a salary of P1,150.00 a month, as cashier.[6] Her superiors -- later indicted with her as allegedly her co-conspirators -- were Magdalena Abenir Irons, the President of the Company,[7] and Domingo B. Babol, the General Manager.[8]

Although no less than seven (7) crimes were attributed to her -- one for illegal recruitment, and six (6) for estafa -- she was, to repeat, convicted of only one, the first, that for illegal recruitment.

Now, the information under which she was convicted, accused her of having, willfully, unlawfully, and feloniously and in conspiracy with her superiors, Irons (president of the corporation) and Babol (general manager), collected from LUCIA BERNARDO, FROILAN BRIONES and REYNALDO VALIDOR -- applicants for Stewardess, Utility Galley and Utility Man in Miami, Florida, U.S.A. -- the sums of P15,300.00, P19,300.00 and P15,000.00, respectively, which amounts are more than the maximum placement and documentation fees of P5,000.00 allowed by the POEA pursuant to its Memorandum Circular No. 5, Series of 1985 to cover all costs and services relative to their recruitment.

Unfortunately for the prosecution, its evidence does not adequately show that Gaoat had any knowing and wilful participation in dealing with, and fixing and collecting fees from, the complaining witnesses. There is no proof that she knew that the fees being collected were in excess of those allowed by law or regulation or that she knew or had been advised of any such limits. There is no proof that she had talked with any of the complainants about the amounts they would have to pay to Roan Philippines, Inc.; in fact, she was absolved from the six (6) other accusations leveled against her, that she had made "false and fraudulent" representations and assurances to the complaining witnesses that she or her co-accused "had the power and capacity to recruit and employ said ** (said complainants) and could facilitate the processing of the pertinent papers in connection therewith." [9] Neither is there any proof that she had converted or misappropriated any part of the money coming into her hands as cashier. All that the State's evidence does show is that after Irons or Babol had fixed the fees payable by complainants, they had turned over the money collected to Gaoat -- or instructed her to receive the money directly from said complainants -- for recording (in index cards) and subsequent deposit in the bank, as were her duties as the company cashier, in line with normal practice and usage. [10]

The paucity of the prosecution evidence as regards the appellant's complicity in the crime charged is evident, for instance, from the testimony of Lucia Bernardo, one of the complainants. Lucia Bernardo testified pertinently as follows: [11]

"FISCAL FORMOSO:

When you went there in May, 1986, to whom did you talk with?

WITNESS:

To Mrs. Magdalena Iron, sir.

FISCAL FORMOSO:

What did she tell you?

WITNESS:

I was told to fill up an application form, sir.

FISCAL FORMOSO:

What else did she tell you?

WITNESS:

I was told to come back after a few days for my interview, sir.

FISCAL FORMOSO:

When you went there for the first time, were you able to talk to Mr. Babol?

WITNESS:

Yes, sir.

FISCAL FORMOSO:

And what did Babol tell you?

WITNESS:

He told me that if I pass the interview I would be able to leave in a period of six months, sir.

FISCAL FORMOSO:

Upon the filing of your application what were the requirement (sic) asked of you?

WITNESS:

The Seaman's book, Medical Certificate and the NBI Clearance, sir.

FISCAL FORMOSO:

Were you able to accomplish these requirements?

WITNESS:

Yes, sir.

FISCAL FORMOSO

To whom did you submit?

WITNESS:

To Mr. Babol, sir.

FISCAL FORMOSO:

After that what did he tell you?

WITNESS:

I was asked to give them cash bond, sir.

FISCAL FORMOSO:

When you submitted those requirements to Babol, what did he tell you?

WITNESS:

He told me to give a cash bond, sir.

FISCAL FORMOSO:

Were you able to give?

WITNESS:

Yes, sir.

FISCAL FORMOSO:

How much?

WITNESS:

P15,300.00, sir.

FISCAL FORMOSO:

What else?

WITNESS:

Fee for the plane ticket, sir.

FISCAL FORMOSO:

By the way, how much was the total amount that you were obliged to pay in order that you could leave?

WITNESS:

P30,000.00 all in all, sir.

FISCAL FORMOSO:

And out of this P30,000.00, you were only able to pay P15,300.00?

WITNESS:

Yes, sir.

FISCAL FORMOSO:

To whom did you give this P15,300.00?

WITNESS:

I was informed by Mrs. Iron to give the money to Mrs. Alicia Gaoat, their cashier, sir.

FISCAL FORMOSO:

When you delivered the P15,300.00 were there persons present?

WITNESS:

My companions who made payments also, sir.

FISCAL FORMOSO:

Now, was Mr. Babol present when you gave the P15,300.00?

WITNESS:

Yes, sir.

FISCAL FORMOSO:

What did he tell you, if any?

WITNESS:

That I would also give the money to Mrs. Alicia Gaoat, sir.

FISCAL FORMOSO:

Did you actually give the P15,300.00?

WITNESS:

Yes, sir.

* * *."

Lucia Bernardo made clear that it was Babol and Irons who had assured her she would be able to leave for her projected employment in Miami, Florida, U.S.A., and instructed her to pay the fees required of her to Alicia Gaoat;[12] and that she had spoken to the latter only after paying the amount fixed by Irons and Babol.[13]

Much the same thing may be said of the evidence given by the other complainant, Froilan Briones.[14] Froilan Briones' testimony is that it was only Ms. Irons, Mr. Babol, and a certain Ms. Robinson who interviewed him and other applicants; that it was the first two, Irons and Babol, who asked that he put up a cash bond; and that all that Gaoat did was to receive the money that he (Briones) was told by Irons and Babol to pay.[15]

Nor is there any evidence satisfactorily establishing that Gaoat had "conspired and confederated" with her co-accused, apart from the implausibility on its face of the theory of conspiracy between a mere clerk or cashier, on the one hand, and her superiors, the president and the general manager of the company, on the other, because of the patent disparity in their status or rank. On this point, and as regards Gaoat's failure to issue official receipts to the complainants, the Office of the Solicitor General makes the following persuasive observations:[16]

" * * (T)he evidence thus far adduced is bereft of any showing of conspiracy among the three (3) accused. Neither could it be inferred from the act of appellant in receiving or accepting the money paid by private complainants since indubitably, she was merely complying with the orders of her superiors. As established by the evidence, appellant received said sums of money in her capacity as cashier of the Roan Philippines, Inc. All transactions, insofar as she is concerned, were above board. She had no inkling that the corporation would in the future, without her knowledge, simply fold-up, leaving her and other co-employees to the wayside, so to speak.

Proof beyond reasonable doubt is required to establish a finding of criminal conspiracy (Castañeda vs. Sandiganbayan, 171 SCRA 263).

Granting that appellant was negligent in failing to issue receipts to private complainants, such failure was sufficiently explained as having been omitted per specific instruction of the president, Mrs. Iron and/or the general manager, Mr. Babol. There was, therefore, no concurrence by herein appellant with her superiors in withholding issuance of receipts.

In analogy, 'the concurrence of accused's negligence with the defalcation perpetrated by his co-accused will not suffice to make him a co-conspirator' (Valdez vs. People, 173 SCRA 1163).

The prosecution has thus failed to prove that appellant conspired with the other accused in this case, clearly and convincingly as the commission of the crime itself (Valdez vs. People, supra). The acts of appellant in receiving money from private complainants far exceeding that required by law, in her official capacity as cashier is not among acts enumerated in law as 'recruitment and placement'."

WHEREFORE, the decision of the Court a quo in Criminal Case No. 87-57826, subject of this appeal, is REVERSED and SET ASIDE, and the appellant, Alicia B. Gaoat, ACQUITTED, with costs de officio.

SO ORDERED.

Padilla, Regalado, and Nocon, JJ., concur.

[1] Hon. Romeo J. Callejo, presiding

[2] Rollo, pp. 20, 56-57

[3] Id., p. 113

[4] Id., pp. 83-84, 125, 189-190

[5] Id., id., pp. 85, 126

[6] Id., p. 84, 129

[7] Id., pp. 84, 141

[8] Id., p. 141

[9] SEE p. 2, supra

[10] Rollo, pp. 84, 208. The evidence is that the issuance of official receipts was not part of "office procedure" (Rollo, pp. 141-142).

[11] TSN, Jan. 4, 1988, A.M., pp. _____

[12] Rollo, p. 143

[13] TSN, Jan. 4, 1988, A.M., pp. 38-39

[14] The prosecution did not present the third offended party, Reynaldo Validor, as one of its witnesses (Rollo, p. 145).

[15] TSN, Jan. 4, 1988, P.M., pp. 5-8, 14, 23, 25, 27, 29, 34

[16] Rollo, pp. 215-216

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