

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PAULINO NAPARAN, JR. Y NACAR, ACCUSED-APPELLANT.

G.R. No. 98443. August 30, 1993

Ponente: ROMERO, J.

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ROMERO, J.:

Accused Paulino Naparan, Jr. y Nacar interposes the present appeal from the decision of the Regional Trial Court, National Capital Judicial Region, Branch 104, Quezon City in Criminal Case No. Q-89-4696 finding him guilty beyond reasonable doubt of Illegal Recruitment committed in large scale.

On June 21, 1989, accused-appellant was charged with Illegal Recruitment in an information which reads:

“The undersigned Assistant City Prosecutor accuses PAULINO NAPARAN JR Y NACAR of the crime of ILLEGAL RECRUITMENT (Sec. 39 PD 442 as amended by PD 2018), committed as follows:

That during the period from May 26, 1989 to June 9, 1989, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there, wilfully, unlawfully and feloniously canvas, enlist, contract and promise employment to the following persons to wit:

1. Dalton Dizon y Arida - P 4,500.00
2. Eduardo Cortez y Paner - P 3,000.00
3. Pedro Enipto Jr y Santiago - P 7,000.00
4. Teresita Santiago y Factor - P13,000.00

as recruitment fees, such recruitment activities being done without the required license or authority from the Department of Labor; and committed in a large scale against said victims, individually or as a group, an offense involving economic sabotage.

CONTRARY TO LAW.”[1]

Upon arraignment, accused-appellant pleaded not guilty.[2]

During trial, the prosecution presented the four complainants and one Angelita Cawili who corroborated the testimony of complainant Teresita Santiago.

Complainant Eduardo Cortez[3] testified that, in the course of his employment as bellboy at Monte Carlo Hotel, Sta. Cruz, Manila, he met accused-appellant sometime in March 1989 while the latter was billeted therein. During one of their conversations, accused-appellant offered him an overseas job in the United States of America as a "boy by washing airplanes" with a salary of \$100.00 a day. He decided to accept the offer which he perceived as "an opportunity to work abroad."

On May 31, 1989, he went to see accused-appellant at his new place in Room 304, PM Apartelle,[4] Matalino

Street, Quezon City and gave the latter P3,000.00 for his visa and plane ticket. No receipt was issued and he did not insist on one because accused-appellant threatened that he would not be able to go abroad if he insists. In connection with his departure, he underwent a medical examination[5] at the Protacio Hospital for which he paid P270.00.

Accused-appellant disappeared after complainant was not able to leave as promised. He saw the accused two days later at the latter's apartelle where he explained that the delay was due to a "need for money." Later, complainants discovered some tapes in the attache case of accused-appellant. While playing these, they heard accused-appellant's mother advising his son to reform as he had already swindled a lot of people in Ilocos. It was then that they decided to report the matter to the police.

Complainant Pedro Enipto, Jr.[6] narrated that it was through Eduardo Cortez and one Roger Salvatierra that he came to know accused-appellant. During their initial meeting, accused-appellant talked about his projects at Fort Ilocandia of which, according to him, he was part owner. It was in this conversation that he encouraged them to work in Washington, D.C. as aircraft maintenance crew with a salary of about hundred dollars. He assured them that he was in a position to petition for them to work there because he was a "balikbayan" and his deceased father was a retired colonel in Washington.

Enipto gave accused-appellant P4,000.00 on May 30, 1989 and another P3,000.00 on June 2, 1989 at PM Apartelle at the back of Quezon City Hall. He did not ask for a receipt because accused-appellant told him that if he asked for one he would be left behind. His aunt, complainant Teresita Santiago, was present when he gave the money.

Accused-appellant accompanied them in procuring their passport and undergoing medical examination at Protacio Hospital.[7] For these services, Enipto incurred additional expenses of P550.00 and P270.00, respectively.

When they were unable to leave on June 15, 1989 for Washington, D.C., accused-appellant disappeared. Later, he called them up to explain that he was the victim of a holdup. They waited again to find out when they could leave. On his second call, he asked them to fetch him in Intramuros which they did. He likewise asked them to get his things at PM Apartelle. One of their companions, Dalton Dizon, discovered a tape where accused-appellant's parents were advising him not to go back to Laoag because many people were looking for him. Thereafter, they agreed to report the matter to the police to whom they gave their statements and the tape.

Complainant Teresita Santiago[8] met accused-appellant through her nephew Pedro Enipto, Jr. who brought him to her residence at Novaliches. Accused-appellant encouraged her to work abroad as baby sitter for \$750.00 a month. He told her that he would take care of the expenses that would be incurred except for the plane ticket but even this would be refunded later. She believed him as he introduced himself as a millionaire who owns Fort Ilocandia, Benguet Mining Corp. and Contrex Industrial Corporation. He also mentioned a certain Atty. Efren Ramos from Laoag whom she happened to know personally. He even said that he was a "pamangkin ni Marcos." Subsequently, he asked for P8,000.00 for the plane ticket which she gave on May 30, 1989. Later, he asked for an additional P5,000.00 which she gave on June 5, 1989. Both amounts were delivered to accused-appellant at Room 304, PM Apartelle, Quezon City. She received no receipt for these amounts although these transactions were witnessed by Angelita Cawili who corroborated her testimony on these points.[9]

On cross-examination, she stated further that she entertained no doubt about the accused-appellant who assured her that he could get jobs even for twelve persons abroad. Moreover, he was driving a car when he came to her house and was staying in an apartelle. That he gave his office address in Washington, D.C. and impressed on her that he was a son of a retired US Air Force officer convinced her of his capability in sending them abroad. Accused-appellant even accompanied them in securing their passports.[10] However, the promised trip did not

materialize. Accused-appellant would disappear intermittently and upon surfacing, would promise to withdraw some money at PNB. Another time, he called up to inform them that he was kidnapped for ransom. When she asked him to return her money, accused-appellant failed to do so.

Complainant Dalton Dizon[11] testified that accused-appellant was introduced to him by his friend Cesar Angeles on December 1988. After this meeting, they did not see each other again until May 1989 when accused-appellant went to Dizon's house at 157 Alley 2, Project 6, Quezon City asking for his help to look for a place to stay in. Later, they met again at PM Apartelle where accused-appellant offered him employment in Washington, D.C. as a hospital aide. In consideration of the promise for employment, he gave the accused P4,500.00 in the latter's apartelle. No receipt was given for the payment although his mother, Candelaria Dizon, was with him when he paid said recruitment fee. He was asked to secure a passport while the accused would take care of everything else. Later, he underwent a medical examination at Protacio Clinic to determine his physical fitness to work abroad.[12]

When accused-appellant failed to make good his promise, he reported the matter to the Quezon City police.

The lower court dispensed with the taking of the testimony of Ruben de Castro, Jr. of the Philippine Overseas Employment Administration (POEA) after the parties stipulated that he would testify to the fact that the accused-appellant was not authorized to recruit workers for abroad.[13] The corresponding certification issued by the POEA was marked as Exh. "E."

Counsel for accused-appellant offered his testimony as the lone evidence for the defense.

Accused-appellant[14] denied the charge of engaging in the recruitment of complainants for overseas employment and of receiving money from them. According to him, he used to reside in Laoag City but came to Quezon City when he was called by Dalton Dizon. He first stayed for one whole afternoon, at Dalton's parlor in Tandang Sora. Then, he moved to PM Apartelle, the rent of which was paid by Dalton's brother, Daniel. Accused-appellant met the three other complainants during the "despedida" party of Daniel held at PM Apartelle. He went to Teresita Santiago's house in Novaliches upon the latter's invitation for him to eat there. He admitted receiving P5,000.00 from her as a loan. He denied ever claiming that he was a multi-millionaire and that former Pres. Marcos was his grandfather.

The lower court,[15] on April 3, 1991, promulgated its judgment finding that:

"WHEREFORE, finding the accused PAULITO NAPARAN, JR. Y NACAR, guilty beyond reasonable doubt of the crime of ILLEGAL RECRUITMENT committed in a large scale, an offense involving ECONOMIC SABOTAGE, accused is hereby sentenced to suffer the penalty of life imprisonment and a fine of One Hundred Thousand Pesos (P100,000.00) and to pay the following persons:

- a) Dalton Dizon y Arida - P4,500.00;
- b) Eduardo Cortez y Paner - P3,270.00;
- c) Pedro Enipto, Jr. y Santiago - P7,820.00;
- and,
- d) Teresita Santiago y Factor - P13,000.00

without subsidiary imprisonment in case of insolvency and to pay the costs.

SO ORDERED." [16]

Hence, this appeal on the ground that the trial court erred in convicting accused-appellant for Illegal Recruitment despite the absence of evidence required to prove his guilt beyond reasonable doubt.

Accused-appellant points out that the prosecution evidence consists merely of the testimonies of complainants and the letter he allegedly wrote addressed to Dalton Dizon where he acknowledged the complaint filed against him by Teresita Santiago. These evidence, according to him, do not prove beyond reasonable doubt that he illegally recruited complainants. For one, the testimonies are nothing but self-serving allegations unsupported by concrete evidence. If accused-appellant did transact with them and receive sums of money as recruitment fees, he would not have hesitated to give them the corresponding receipts; on the other hand, complainants should have demanded receipts from him. In his opinion, it was very unusual for complainants as overseas applicants to neglect investigating whether the recruiter is licensed or authorized by the POEA, or has an office address and can issue official receipts. For another thing, the letter was not shown to him for his identification; hence, it cannot be given any evidentiary value. Granting that the letter was written by him, its contents acknowledging the receipt of money from Teresita Santiago refer only to her and the loan she gave him as he testified. Having transacted with Teresita Santiago only and never with the three other complainants, he cannot possibly be convicted under PD 2018, that is, illegal recruitment committed in large scale and considered an offense involving economic sabotage.

The evidence of the prosecution consists mainly of the testimonies of the four complainants. The fact that only the testimony of Teresita Santiago was corroborated by Angelita Cawili does not water down the weight of their combined testimonies. It is not necessary that the testimony of each of the four complainants be corroborated by other witnesses. Corroborative evidence is necessary only when there are reasons to warrant the suspicion that the witness falsified the truth or that his observations are inaccurate.[17] In this case, complainant's positively identified accused-appellant as the one who recruited them for work abroad, employing the same *modus operandi* for all. They were one in stating that he assured them that he could find jobs for them in the United States and on several occasions, inveigled them into giving him money in his *apartelle*. Against their clear and positive testimonies, accused-appellant's defense was merely a denial which the lower court found to be weak as against the hard evidence built by the prosecution. Accused-appellant's attack is ultimately directed against the credibility of complainants, the best judge of which is the trial court. In the matter of weighing the evidence of the prosecution against that of the defense through an assessment of their respective merits, "it is firmly settled that the findings of the trial court are given weight and the highest degree of respect by the appellate court, and may be disregarded only where substantial errors have been committed or determinative facts have been overlooked and which otherwise would have dictated a different conclusion or verdict." [18] No reason appears to us to deny great weight to the trial court's evaluation of complainants' testimonies.

Accused-appellant stresses the absence of receipts evidencing complainants' payment and argues that he would not have hesitated to issue the same if it were true that he did transact with them. This argument, being purely hypothetical, does not strengthen his denial nor weaken the complainants' testimonies. That there were no receipts does not mean that he did not transact with them. Moreover, he questions complainants' failure to insist on a receipt after they allegedly paid their recruitment fees. Complainants have satisfactorily explained that they did not insist on one because accused-appellant threatened that they would not be able to depart if they insisted. Who can fault them for giving up a measly receipt in return for a golden opportunity to fulfill their dreams of earning easy money abroad? The Court in an earlier case had observed that "poor laborers, seamen, domestics, and other workers (who) see employment abroad as the only way out of their grinding poverty." [19]

Moreover, there is nothing unusual in complainants' failure to investigate the truth of appellant's representations as regards his personal and business background for, being inexperienced and titillated by the prospect of traveling to the proverbial land of milk and honey, they fell easy prey to appellant's glibness and roseate promises.

Even Teresita Santiago, the eldest complainant, endowed though she was with a college degree, fell for his suave ways and could not help but be impressed when she saw him driving a car and learned that he was staying in an apartelle. What clinched his credentials, in her eyes, was his acquaintance with a certain Atty. Efren Ramos whom she knew.

Another evidence presented by the prosecution was the letter of accused-appellant addressed to Dalton Dizon. A portion states:

“... kung iurong nila Ate Tess ang demanda makakagawa ako ng paraan para maybalik ang nawala sa kanila within 20 days basta nasa laya ako...”[20]

When this was formally offered in evidence, accused-appellant did not object to its admissibility. He cannot now deny its authorship and assert that it should not be given evidentiary value. While the quoted portion mentions only Teresita Santiago, it does not support accused-appellant's alternative theory that if he should be found guilty of having committed illegal recruitment, it should be limited only to Teresita Santiago whose name was mentioned in his letter. A careful reading shows that accused-appellant promises to return to Teresita Santiago and company ("nila" Ate Tess) the money he got from them ("kanila") in connection with his representations that he can send them abroad.

The crime of illegal recruitment has two elements. First, the offender is a non-licensee or non-holder of authority to lawfully engage in the recruitment and placement of workers; and second, the offender undertakes either any recruitment activity defined under Article 13 (b) or any prohibited practice enumerated under Article 34 of the Labor Code.[21] That the offender is not authorized by the POEA to engage in the recruitment and placement of workers is evidenced by the certification[22] of the POEA. In fact, the parties stipulated on the testimony of Mr. Ruben de Castro, Jr. regarding his lack of authority. The testimonies of complainants unerringly pointed to accused-appellant as the one who enlisted, contracted and promised employment to them. Accused-appellant's denial cannot prevail over the positive assertions of complainants to whom we can hardly ascribe any motive to testify falsely against him.[23] Undoubtedly, accused-appellant's dealings with the four complainants constitute illegal recruitment committed on a large scale.

Nitóng mgá nakaraang buwán, ang pansín ng sambayanán ay nátuón sa mga krimen na karumaldumal na katulad ng pagpatáy at pagsasamantalá ating mga kababaihan. Warì ay nákaligtaán natin ang mga salarín na dì náhuhulí sa mga mamamatay tao. Silá rin ay nágsasamantalá sa mga inosente at waláng malay. Ang kaibhán ngá lamang ay ang kaniláng biktímá ay yáong ating mga kababayan na nangangarap na mangibáng bayan upang silá ay mahangò sa karalitaan sampû ng kaniláng pamilya.

Sa masidhî nilang hangarin, halos hindî nagdádawaláng-isip kapág may bálanáng nangangakò na ipadadalá silá sa mga bayang nakaríriwasâ kung silá ay magbabayad ng sapát na salapî. Upang mapaniwalá silá, ang mga may masasamáng tangkâ ay nagpapanggáp na silá ay malakás at may koneksyón sa mga Embahada ng mga bayang itó. Hindî lamang madudulás ang kaniláng dilà. Umaastâ siláng maykaya. Naroóng sabihin na nakatirá silá sa otél o poók ng mayayaman. Kapág nakikipagkita sa kaniláng kliyente ay magarà ang suót at nakakotse. Anupát ang mga pobreng nangangarap ay gagawin ang lahat ng makakaya upang makapagbayad ng hinihinging pamasahé sa eroplano.

Kadalasan ay nangungutang silá o ang mga magulang nilá sa "sinco-seis;" o dilì kayá'y nagsasanglâ ng lupaín o nagbibilí ng mga ari-ariang gaya ng kalabáw. Kanilá namáng nahihimok ang kamaganakan nilá na tumulong sapagkát nangangakong magpapadalá ng higít na maraming kuwarta na pambayad sa kaniláng utang o dilì kayâ ay pampaaral sa mga nakababatang kapatíd.

Sa oras na nakapagbitw ng salapî ang biktímá, ang manlilinláng ay dagláng nawawalâ na parang bulâ. Sapagkát

karamihan sa kanilá ay "illegal recruiter" at waláng lisensya sa Philippine Overseas Employment Administration (POEA), hindi na matutuntón ang kaniláng bakás.

Totoóng nápakarami na ang ating kaawa-awang kababayan na napagsamantalahan na ng gayon. Nakalulungkót na kahit na magbabalâ ang pámahalaán at ang mga opisinang kinauukulan, hindi rin dinidinggín ng mga nais na mapabuti ang kalagayan nilá sa buhay sa pamamagitan ng pangigingibáng bayan.

Nápapanahón nang iparating sa mga salarín na iyan na hindi pahihintulutan ng pámahalaán ang gayong malawakang pangloloko sa mga maralitâ na masasabing ang kasalanan lamang ay "naghangád ng kagitnâ, isang salop ang nawalâ." Kamí ay máasahang magpataw ng akmâ at nauukol na parusa na bilanggô habang buhay at multá sa halagang Isáng Daang Libong Piso (P100,000.00) sa katulad ng nasasakdál sa kasong itóng nakasalang sa Kátaastaasang Hukuman ngayon.[24] Umaasa kamíng itó ay magsisilbing halimbawa sa mga waláng awà nating kababayan na patuloy ang gawáng panlilinláng sa kaniláng kapwà Pilipino.

WHEREFORE, the decision of the lower court dated April 3, 1991 finding accused-appellant guilty beyond reasonable doubt of Illegal Recruitment in Large Scale is AFFIRMED.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] Record, p. 1.

[2] Record, p. 6.

[3] Also referred to as Eduardo Cortes in the TSN of May 23, 1990.

[4] Sometimes referred to interchangeably by complainants as PM Apartment or PM Condominium in their testimonies.

[5] Exhibit "I."

[6] TSN, November 15, 1989 and January 17, 1990; Exh. "D" to "D-2."

[7] Exh. "G" and "G-1."

[8] TSN, November 7, 1989; Exhs. "B" to "B-2."

[9] TSN, January 9, 1990.

[10] Exh. "C" and "C-1."

[11] TSN, July 3, 1990; Exh. "F" and "F-1."

[12] Exh. "G" and "G-1."

[13] TSN, January 9, 1990, pp. 20-21.

[14] TSN, November 29, 1990.

[15] Judge Maximiano C. Asuncion, presiding.

[16] Rollo, pp. 33-41. at pp. 40-41.

[17] People v. Dela Cruz, G.R. No. 68319, March 31, 1992, 207 SCRA 632, 643.

[18] People v. Aguiluz, G.R. No. 91662, March 11, 1992, 207 SCRA 187, 191.

[19] Aquino v. Court of Appeals, G.R. No. 91896, November 21, 1991, 204 SCRA 240, 249.

[20] Exh. "A-1."

[21] People v. Bodozo, G.R. No. 96621, October 21, 1992, 215 SCRA 33, 40.

[22] Exh. "E."

[23] People v. Alforte, G.R. Nos. 91711-15, March 3, 1993.

[24] Arts. 38 and 39 of the Labor Code.

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