

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MANUEL DE GUIA Y SAMONTE, DEFENDANT AND APPELLANT.

G.R. Nos. 107200-03. November 09, 1993

Ponente: PUNO, J.

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PUNO, J.:

Illegal recruiters constitute one of the worst vultures of our society today. They prey on the gullible, and often, they victimize the already marginalized Filipinos who will do anything to improve their economic status. The case before us involves one of their kind.

Accused-appellant Manuel de Guia y Samonte was convicted by the Regional Trial Court of Manila, Branch XLI,[1] of the crime of Illegal Recruitment in large scale[2] and three (3) counts of Estafa,[3] in violation of Article 38 of the Labor Code, as amended and Article 315 (2)(a) of the Revised Penal Code, respectively.

The Information in each case reads as follows:

1. Criminal Case No. 92-103341:

“That in (sic) or about and during the period comprised between May 23, 1991 and December 11, 1991, inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating with one whose true name, identity and present whereabouts are still (unknown) and mutually helping each other, representing himself 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 Cirilo Lising y Mercado, Monteza (sic) Gazmin y Pascual, Leopoldo Realino y Arceo and Jesus Sumalinog y Carin, without first having secured the required license or authority from the Department of Labor and Employment.

“Contrary to law.” (Rollo, p. 4)

2. Criminal Case No. 92-103342:

“That on or about November 24, 1991, in the city of Manila, the said (accused,) conspiring and confederating with one whose true name, identity and present whereabouts are still unknown, and mutually helping each other, did then and there willfully, unlawfully and feloniously defraud Leopoldo Realino y Arceo in the following manner, to wit: the said accused by means of false manifestations and fraudulent representation which he made to said Leopoldo Realino y Arceo to the effect that he had the proper (authority) and capacity to recruit and employ said Leopoldo Realino y Arceo as factory worker in Japan and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Leopoldo Realino y Arceo to give and deliver, as in fact he gave and delivered to said accused the amount of P120,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact he did obtain the amount of P120,000.00, which amount once in his possession, with intent to defraud he, wilfully, unlawfully and feloniously misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of said Leopoldo Realino y Arceo in the aforesaid amount of P20,000.00 Philippine Currency.” (Rollo, pp.5-6)

3. Criminal Case No. 92-103343:

“That on or about and during the period comprised between October 3 and December 11, 1991, inclusive, in the City of Manila, Philippines, the said accused conspiring and confederating with one whose true name, identity and present whereabouts are still unknown and mutually helping each other did then and there wilfully, unlawfully and feloniously defraud Jesus Sumalinog y Carin (in) the following manner, to wit: the said accused by means of false manifestations and fraudulent representation which they made to said Jesus Sumalinog y Carin to the effect that he had the proper (authority) and capacity to recruit and employ said Jesus Sumalinog y Carin as x x x contract worker in Japan and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Jesus Sumalinog y Carin to give and deliver, as in fact he gave and delivered to said accused the amount of P50,000.00 on the strength of said manifestations and representation, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact he did obtain the amount of P50,000.00 which amount once in his possession, with intent to defraud he, wilfully, unlawfully and feloniously misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of said Jesus Sumalinog y Carin in the aforesaid amount of P50,000.00 Philippine Currency.” (Rollo, pp. 7-8)

4. Criminal Case No. 92-103344:

“That on May 23, 1991, in the City of Manila, Philippines, the said accused, conspiring and confederating with one whose true name, identity and present whereabouts are still unknown and mutually helping each other did then and there wilfully, unlawfully and feloniously defraud Monteza (sic) Gazmin y Pascual in the following manner, to wit: the said accused by means of false manifestations and fraudulent representation which he made to said Montesa Gazmin y Pascual to the effect that he had the power and capacity to recruit and employ said Montesa Gazmin y Pascual as factory worker in Korea and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Montesa Gazmin y Pascual to give and deliver, as in fact she gave and delivered to said accused the amount of P30,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact he did obtain the amount of P30,000.00 which amount once in his possession, with intent to defraud he, wilfully, unlawfully and feloniously misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of said Montesa Gazmin y Pascual in the aforesaid amount of P(30,000.00) Philippine Currency.” (Rollo, pp. 9-10)

Upon arraignment, the accused pleaded not guilty to the offenses charged. The cases were tried jointly.

The prosecution presented the four (4) private complainants (Cirilo Lising, Montessa Gasmin, Leopoldo Realino and Jesus Sumalinog) as witnesses. They testified as follows:

CIRILO LISING, a 41-year old farmer from Gapan, Nueva Ecija testified that in August 1991, he was summoned by his brother-in-law, Jose (Jhun) Cruz, to fix the septic tank in his house.[4] There, he was introduced to the accused and a certain Loida de Guia who represented themselves to be husband and wife. The two were boarders in Cruz’ house.[5] While fixing the tank, the couple engaged him in a conversation and told him they could facilitate his employment in Korea. He was informed that the placement fee was forty thousand pesos (P40,000.00). Relying on the couple’s representations, he decided to try his luck abroad. The couple promised him a job as factory worker in Korea with an income of \$500.00 per month. They asked him to prepare an initial amount of nine thousand seven hundred pesos (P9,700.00) for his plane fare. They told him that he could pay for the balance of the fee when he reach Korea for upon his arrival, he would receive a two-months cash advance on his salary. He agreed.[6]

On August 12, 1991, he submitted to the accused his passport and biodata in their office, ML Promotions, at Room 102, Marrieta Apt., 1200 J. Bocobo Street, Ermita, Manila. He handed the amount of P9,700.00 to Loida and the latter issued and signed a receipt therefor.[7]

Lising, however, failed to leave for Korea. He then verified the status of the agency from the POEA and discovered that the accused and Loida were not licensed recruiters.[8] Thus, on February 13, 1992, he complained to CIS PO3 Romeo M. Cerezo and gave a written statement.[9]

On cross-examination, Lising produced two (2) calling cards of ML Promotions: one showed Loida de Guia as the general manager while the other showed the accused as its travel consultant.[10]

MONTESSA GASMIN, a 19-year old, high school graduate from San Juan, Tarlac testified that she learned from her cousin, Joey Lino, that the accused and Loida de Guia were engaged in job placement overseas. On May 15, 1991, she asked her cousin to accompany her to the couple's Ermita office where the accused informed her that they deploy workers to Korea. Relying on said representation, she applied as a factory worker in Korea and accomplished the corresponding application form. She was told that she would earn \$500.00 per month and was asked to pay thirty thousand pesos (P30,000.00) to cover her traveling expenses.[11]

She gave the couple the required amount in two (2) installments, viz: P10,000.00 on May 23, 1991 and P20,000.00 on June 4, 1991, as evidenced by two (2) receipts of even date.[12] She gave the money to Loida who signed the receipts in her presence.[13] The couple assured her that she could leave for Korea by the end of June 1991. The promise proved to be false. On July 14, 1991, she again went to the couple's office in Ermita to follow-up her departure. Again, the spouses assured her that she would be able to leave on the succeeding week. Nothing came out of the promise. Thus, together with the other private complainants, she reported the matter to the CIS Camp Crame where she executed her written statement.[14]

LEOPOLDO REALINO, a 42 year-old driver, residing at Balibago, Angeles City testified that her brother, Roger, brought him to the couple's recruitment office in Ermita where he met the accused. He inquired from the accused whether he could work out his employment in Japan. The accused replied in the affirmative. Still undecided, he told the accused he would just come back.[15]

Sometime in August 1991, he returned to their Ermita office and applied as a contract worker in Japan. The accused told him to prepare one hundred twenty thousand pesos (P120,000.00). He was also asked to fill up and sign an application form.[16]

On November 4, 1991, Leopoldo went to their office and handed the money to the accused. The accused then ordered Loida, whom Leopoldo met for the first time, to prepare the necessary receipt.[17] The accused failed to employ him in Japan despite repeated promises. He demanded the return of his money but to no avail. He, together with his companions, went to the POEA where they discovered that the accused was not licensed to recruit workers for overseas employment. With the intention of confronting the accused, they proceeded to their Ermita office but were informed that the accused was already detained at Camp Crame. Thus, they went to Camp Crame where they gave their statements.[18]

The last witness for the prosecution was JESUS SUMALINOG, an industrial electrician from Makati. He testified that he first met the accused in May 1991 in the accused's Ermita office where he inquired about the possibility of employment in Japan. The accused interviewed him. The accused told him that the cost of processing his papers would run from P85,000.00 to P95,000.00. However, when Sumalinog intimated that he could only afford to pay P50,000.00, the accused conferred with Loida, who was introduced by the accused as his wife. The couple then agreed to be paid P50,000.00 and he was told to fill up an application form. He was informed that he could work

as a contract worker in a computer firm where he would earn \$1,200.00 per month. The couple asked him to prepare the money.[19]

Sumalinog gave the money to the accused in four (4) installments, thus: P10,000.00 on October 3, October 30, November 18 and November 21, 1991; P8,000.00 on November 25, 1991; and finally, P2,000.00 on December 11, 1991. In each instance, the accused instructed Loida to prepare the receipts and the same were duly issued and signed by Loida.[20]

The two assured Sumalinog that he could leave after two (2) weeks. Failing to leave as promised, he was again made to wait for another two (2) weeks. Still, the accused did not make good with said promise.[21]

He then went to the POEA where he discovered that the accused was not licensed to recruit workers for overseas employment. He sought the accused in his Ermita office but found out that the accused was already in the custody of the CIS. He talked with the accused in Camp Crame and the latter asked him not to file any complaint. The accused assured him that his money would be returned. He did not heed said request and filed the complaint at bar.[22]

The evidence of the accused rests mainly on denial and alibi. He alleged that he was not a recruiter but a driver by profession from 1970 up to December 1991. He contended that he could not have participated in the recruitment of complainants since from May to December 1991, he was employed at RTS Trading Associate Corporation where he reported for work from 7:00 o'clock in the morning until 5:00 o'clock in the afternoon. He was employed as a driver delivering various merchandise for the corporation. He alleged that after work, he always went straight home to Montalban, Rizal.[23]

He further testified that his legal wife is Paula Diones and that he has no illicit relationship with one Loida de Guia. According to the accused, he first met Loida in the latter's house in Baclaran in May 1991. He met Loida to secure overseas employment for his son. He again went to Loida's house in July 1991 to follow-up his son's employment application. Further, the accused claimed that he met the complainants only while he was already detained in Camp Crame.[24]

Renato Samonte, owner of RTS Trading and a childhood friend of the accused, corroborated his alibi. He testified that the accused acted as his part-time driver from May 1991 until December 1991.[25]

On the basis of the above evidence, the trial court found the accused guilty beyond reasonable doubt of the crimes charged. The dispositive portion of the decision reads:

“WHEREFORE, judgment is hereby rendered as follows:

“1. In Crim. Case No. 92-103341, finding the accused Manuel de Guia y Samonte guilty beyond reasonable doubt for (sic) the crime of Illegal Recruitment committed in large scale and hereby sentences the said accused to suffer the penalty of life imprisonment and for him to pay a fine of P100,000.00. The said accused is further hereby ordered to pay the complainant Cirilo Lising the sum of P9,700.00 as and by way of actual damage;

“2. In Crim. Case No. 92-103342, finding the accused Manuel Guia y Samonte guilty beyond reasonable doubt for (sic) the crime of Estafa and hereby sentences the said accused to suffer an indeterminate sentence ranging from Eight (8) years and One (1) day of prision mayor as minimum to Fourteen (14) years Five (5) months and Eleven (11) days of reclusion temporal as maximum and for the said accused to indemnify the complainant Leopoldo Realino the sum of P120,000.00 as and by way of actual damage;

“3. In Crim. Case No. 92-103343, finding the accused Manuel de Guia y Samonte guilty beyond reasonable doubt for (sic) the crime of Estafa and hereby sentences the said accused to suffer an indeterminate sentence ranging from Three (3) years Six (6) months and Twenty One (21) days of prision correccional as minimum to

Seven (7) years Five (5) months and Eleven (11) days of prision mayor as maximum and for the said accused to indemnify the complainant Jesus Sumalinog the sum of P50,000.00 as and by way of actual damage; and

“4. In Crim. case No. 92-103344, finding the accused Manuel de Guia y Samonte guilty beyond reasonable doubt for (sic) the crime of Estafa and hereby sentences the said accused to suffer an indeterminate sentence ranging from One (1) year Eight (8) months and Twenty One (21) days of prision correccional as minimum to Five (5) years Five (5) months and Eleven (11) days also of prision correccional as maximum and for the said accused to indemnify the complainant Montesa P. Gazmin the sum of P30,000.00 as and by way of actual damage.

“Costs against the accused.

“SO ORDERED.” (Rollo, pp. 20-30)

Accused appealed to this Court raising the following assignment of errors:

I.

THE TRIAL COURT ERRED IN FAILING TO PROSECUTE THE REAL MALEFACTOR, LOIDA DE GUIA, WHO SHOULD HAVE BEEN INCLUDED AS ONE OF THE ACCUSED CONSIDERING THAT SHE ISSUED AND SIGNED THE RECEIPTS EVIDENCING THE PAYMENTS ALLEGEDLY MADE BY THE PRIVATE COMPLAINANTS AND WHICH WERE THE ONLY BASES FOR FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED BEYOND REASONABLE DOUBT ON THE BASIS OF THE PAUCITY OF THE EVIDENCE FOR THE PROSECUTION (receipts of payments) ALTHOUGH THE SAME ARE INADMISSIBLE IN CHARACTER FOR BEING PURELY HEARSAY EVIDENCE.

III.

THE LOWER COURT ERRED IN (UP)HOLDING THE UNLAWFUL ARREST OF THE ACCUSED IN A PUBLIC PLACE WITHOUT ANY WARRANT OR PROCESS ISSUED BY A COMPETENT COURT.

The first (2) assigned errors are interrelated and shall be discussed together.

Appellant’s position is that the real perpetrator of the charges imputed against him is Loida de Guia whose signature appears on all the receipts issued to the complainants. He submits that his mere presence at the Ermita office everytime the complainants paid the required fees cannot be made the basis of a finding that he was involved in the illegal recruitment of private complainants. He contends that Loida de Guia should have been charged as the proper accused.

Appellant’s submission deserves scant consideration. To begin with, appellant did not raise this argument in the trial court. It is too late to raise it on appeal. More importantly, the Informations against the appellant show that the appellant was charged with “conspiring and confederating with one whose true name, identity and present whereabouts are still unknown x x x.” From the evidence, this co--conspirator is Loida de Guia who pretended to be the wife of herein appellant. There is no obstacle for the State to charge this person who goes by the name of Loida de Guia as soon as her true identity and address become known to the prosecution. Her non-prosecution at this stage, however, provides no ground for the appellant to fault the decision of the trial court convicting him.

Appellant also erred in dismissing the receipts issued by Loida de Guia as hearsay evidence. The records show

that Leopoldo Realino and Jesus Sumalinog testified that they personally handed the money representing the required fees to herein appellant. The latter, in turn, instructed Loida to prepare the corresponding receipts. This was after private complainants were made to believe that the accused and Loida, aside from being husband and wife, were jointly operating the recruitment business, with the former as travel consultant and the latter as the general manager. The evidence shows that the receipts were signed by Loida in the presence of the complaining witnesses. Consequently, Realino and Sumalinog had personal knowledge of the circumstances surrounding the issuance of these receipts and their testimonies cannot be considered as hearsay evidence.

It is not also correct to argue that the guilt of the appellant was based alone on the receipts issued by Loida de Guia. All the complaining witnesses testified that the accused took an active and direct part in misrepresenting that he had the authority and the power to facilitate their employment abroad. Aside from their testimonial evidence, calling cards were presented showing the accused to be the Travel Consultant of said agency, with Loida as the General Manager. Moreover, the evidence also showed that it was the accused who asked the applicants to fill up their applications and to prepare their respective biodata. He also demanded from them varying amounts of money as processing fees. All these show that the accused and Loida de Guia, who are not licensed recruiters, adopted a systematic and elaborate scheme to defraud the complainants through false promises of jobs abroad.

We are not also impressed by the defense of the appellant. Glaring inconsistencies marred his short testimony. At one time, he testified that he was arrested by the CIS officers at a department store in Ermita, Manila.[26] Later on, however, he stated that he was arrested in Marrieta Apartment, located at J. Bocobo Street, Ermita, Manila.[27] He likewise claimed during the trial that he was not aware that Loida de Guia had an office located in Marrieta Apartment, Ermita,[28] but at the same time, he raises in this appeal the defense that he himself has been at the Ermita office to follow-up the job placement of his son in Korea.[29]

This is not all. Initially, appellant claimed during the trial that he could not have possibly been at the Ermita office and received payments made by the complainants for he was then employed as a professional driver for RTS Trading. On appeal, however, appellant would have us believe that during the period from May to December 1991 when private complainants went to the Ermita office to file their application and pay the corresponding fees, accused-appellant “just happened to be there” for he was himself following-up the job application of his son.[30]

Appellant’s corroborating witness, Renato Samonte, was equally unimpressive. In fact, Samonte’s testimony rendered the defense’s theory more open to doubt. For one, his testimony that appellant has been in his employ from May to December 1991 was not corroborated by any documentary evidence, such as pay slip/pay roll, certification of SSS contributions and, hence, has little value. Moreover, even assuming that appellant was a part-time driver of Samonte, the nature of his job would not make it physically impossible for him to operate a recruitment business on the side. Time and again, We have ruled that alibi, being a weak defense, must be proved by clear and convincing evidence which should reasonably satisfy the Court of its veracity.[31]

The credence of the private complainants is further bolstered by the admission of appellant himself that he does not know of any ill-motive why they would hurl such serious accusations against him.[32] The private complainants were all previously unknown to him.

Finally, appellant’s alleged warrantless arrest will not exculpate him from his guilt as found by the trial court. To be sure, the plea comes too late in the day. We note that upon arraignment, appellant pleaded not guilty to the Information and did not raise the alleged illegality of his arrest. By so pleading, he waived the alleged illegality of his arrest.[33] In *People v. Briones*,[34] we ruled that the illegality of appellant’s warrantless arrest cannot render all the other proceedings, including the appellant’s conviction, void. It cannot deprive the State of its right to

convict the guilty when all the facts on record point to his culpability.

WHEREFORE, premises considered, the decision of the court a quo finding the appellant Manuel de Guia y Samonte guilty beyond reasonable doubt of Illegal Recruitment in Large Scale for having engaged in the business of recruiting the four (4) private complainants for overseas employment without any license or authority from the POEA and three (3) counts of Estafa, for falsely pretending to possess power and qualification to deploy private complainants for overseas employment, is hereby AFFIRMED in toto. Costs against appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

[1] Presided by Judge Domingo D. Panis.

[2] Docketed as Criminal Case No. 92-103341.

[3] Docketed as Criminal Cases Nos. 92-103342, 92-103343 and 92-103344.

[4] TSN, April 7, 1992, pp. 3-4, 10.

[5] *id.*, pp. 8-9.

[6] *id.*, pp. 4-5, 10-12.

[7] *id.*, pp. 5, 17-18; Exh. "A".

[8] POEA Certification dated April 2, 1992, Exhibit "C", Original Records, p. 67.

[9] *id.*, pp. 6 & 15.

[10] *id.*, p. 8; Exhibits "D" and "E", respectively.

[11] *id.*, pp. 19-21, 31.

[12] Exhibits "F" and "G", Original Records, pp. 70-71.

[13] *id.*, pp. 22-23, 31.

[14] *id.*, pp. 23-25, 32.

[15] TSN, April 8, 1991, pp. 2-4.

[16] *id.*, pp. 5-6.

[17] Exhibit "I", Original Record, p. 74.

[18] TSN, April 8, 1991, pp. 6-10, 13.

[19] *id.*, pp. 16-19.

[20] *id.*, pp. 20-22; Exhibits "K" to "K-5", Original Records, pp. 77-82.

[21] *id.*, p. 22.

[22] *id.*, pp. 22-24.

[23] TSN, April 28, 1992, pp. 7-16.

[24] TSN, April 28, 1992, pp. 3-7.

[25] TSN, June 9, 1992, pp. 2-5.

[26] TSN, April 28, 1992, p. 16.

[27] TSN, May 19, 1992, p.3.

[28] TSN, April 28, 1992, p. 20.

[29] Appellant's Brief, Rollo, p. 46.

[30] Appellant's Brief, supra.

[31] People v. Loste, G.R. No. 100198, July 1, 1992, 210 SCRA 647.

[32] TSN, April 28, 1992, p. 23.

[33] People v. de Guzman, et al., G.R. Nos. 983221-24, June 30, 1993.

[34] G.R. No. 90319, October 15, 1991, 202 SCRA 708.

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