

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NIMFA REMULLO, ACCUSED-APPELLANT.

G.R. Nos. 124443-46. June 06, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] of the Regional Trial Court, Makati City, Branch 132, in Criminal Cases Nos. 95-653 to 95-656, convicting appellant Nimfa Remullo and sentencing her to suffer the following penalties: (1) in Criminal Case No. 95-653, involving illegal recruitment on a large scale, life imprisonment and the payment of a P100,000 fine, (2) for each case of estafa in Criminal Cases Nos. 95-654 to 95-656, two years, four months, and one day of prision correccional to six years and one day of prision mayor, and to indemnify the private complainants P15,000 each, and (3) to pay the costs.

In Criminal Case No. 95-653, appellant was indicted in an information that reads:

That in or about and during the months from March to May 1993, in the Municipality of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above named accused, falsely representing herself to have the capacity and power to contract, enlist and recruit workers for job/placement abroad, did then and there willfully, unlawfully and feloniously collect for a fee, recruit and promise employment job placement abroad to the complainants, ROSARIO CADACIO, JENELYN QUINSAAT and HONORINA MEJIA, without first securing the required license or authority from the Department of Labor and Employment, thus committing illegal recruitment in large scale in violation of [Article 38(2) in relation to Article 39 (b) of the Labor Code].[2]

In Criminal Case No. 95-654, the allegations in the information read:

That in or about and during the months from March to May 1993 in the Municipality of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above named accused, by means of false pretenses and fraudulent representation made prior to or simultaneously with the commission of the fraud, with intent to defraud the complainant JENELYN QUINSAAT to the effect that she would send her abroad for the purpose of employment and would need certain amount for the expenses in the processing of papers thereof, which representations the accused well knew was (sic) false and fraudulent and was only made by her to induce said complainant to give and pay, as in fact the latter gave and paid to her the amount of P15,000.00 which the accused once in possession of the said amount, did then and there willfully, unlawfully and feloniously appropriate and convert to her own personal use and benefit, to the damage and prejudice of the complainant JENELYN QUINSAAT in the aforementioned amount of P15,000.00.[3]

Except for the name of the private complainants, the informations in Criminal Cases Nos. 95-655 and 95-656 read substantially the same as that for Criminal Case No. 95-654.[4] Instead of Jenelyn Quinsaats, the alleged victims of estafa were Rosario Cadacio and Honorina Mejia, respectively.

Upon her arraignment, appellant pleaded not guilty to all the charges against her.[5] Trial ensued thereafter.

The prosecution presented as its witnesses private complainants Honorina Mejia, Rosario Cadacio, and Jenelyn Quinsa; Corazon Aquino of the licensing department of the Philippine Overseas Employment Administration (POEA); and Evelyn Landrito, vice president and general manager of Jamila and Co., Inc., appellant's employer.

Private complainants JENELYN QUINSAAT, ROSARIO CADACIO, and HONORINA MEJIA testified on essentially the same facts. They averred that they went to appellant's house sometime in March 1993, where appellant told them she was recruiting factory workers for Malaysia. Appellant told them to fill up application forms and to go to the office of Jamila and Co., the recruitment agency where appellant worked. Appellant also required each applicant to submit a passport, pictures, and clearance from the National Bureau of Investigation (NBI); and then to undergo a medical examination. Appellant told them the placement fee was P15,000 for each applicant, which private complainants gave her. Part of the fee was paid in appellant's house and part was paid at the Jamila office. Appellant did not issue receipts for any of the payments.

At the Jamila office, private complainants met a certain Steven Mah, the alleged broker from the company in Malaysia that was interested in hiring the women. Mah was supposed to interview private complainants but instead just looked at them and told them they were fit to work.

Private complainants were supposed to leave for Malaysia on June 6, 1993. On May 28, 1993, private complainant Quinsa testified that she and the others met with appellant at the Philippine General Hospital where appellant showed them their plane tickets. Appellant also told them to fill up departure cards by checking the word "holiday" thereon.

At the airport on June 6, 1993, an immigration officer told private complainants they lacked a requirement imposed by the Philippine Overseas Employment Administration (POEA).[6] Their passports were cancelled and their boarding passes marked "offloaded". Private complainant Mejia testified that appellant told them they were not able to leave because their visas were for tourists only.[7]

Appellant told private complainants they would be able to leave on June 20, 1993 but this, too, did not push through.

Private complainant Mejia inquired from Jamila and Co. regarding their application papers. In response, Evelyn Landrito, vice president and general manager to Jamila, denied any knowledge of such papers. Landrito told Mejia that appellant did not submit any document to Jamila. She further certified that appellant was not authorized to receive payments on behalf of Jamila.[8]

EVELYN LANDRITO testified that appellant was a marketing consultant for Jamila.[9] As such, her work was limited to securing job orders for the company through contacts abroad. According to Landrito, appellant went on absence without leave in late 1993.

Landrito did not know the private complainants. She stated that Jamila did not have job orders accredited by the POEA for Malaysia.[10] She knew of a Steven Mah who represented Manifold Enterprise but the agreement with that company did not push through and POEA did not accredit Manifold.[11]

CELYNIA CUYA testified that she was a clerk at the Jamila office, responsible for processing documents for submission to the POEA. She also assisted in interviewing job applicants. She narrated that Amado Pancha, one of the witnesses for the defense who claimed that he applied for a job abroad through Jamila, never applied at Jamila based on their records. She presented in court a certification to this effect, signed by Evelyn Landrito.[12]

In her defense, appellant NIMFA REMULLO denied having recruited private complainants and receiving any money from them. According to her testimony, she met private complainants sometime in March 1993 at the

Jamila office where she was a marketing consultant. They asked for her help in obtaining jobs abroad, so she had them fill up bio-data forms and told them to wait for job openings.[13] She alleged that Jamila had an agreement with Wearness Electronics, based in Malaysia, concerning the recruitment of workers for Wearness.[14] Private complainants were supposed to have been recruited for Wearness.[15]

Appellant explained that Steven Mah was the owner of Manifold[16] Enterprise,[17] a recruitment agency. Appellant said that Mah “went to Malaysia to look for job opening and he was able to find this company, Wearness Electronics.”[18]

Appellant insisted that private complainants did not hand their placement fees to her but to Steven Mah and to a certain Lani Platon.[19] She presented in evidence photocopies of receipts allegedly signed by Platon.[20] She said private complainants sought her assistance after they were unable to leave for abroad. She pointed out that she helped private complainants fax a letter to Steven Mah in Singapore asking for the return of their money.[21] She also accompanied them to Batangas where Lani Platon was supposed to be residing.[22]

On cross-examination, appellant insisted that her job at Jamila was not limited to finding prospective employers abroad. She said that her duties included those assigned by Virginia Castro, Jamila’s deputy manager, among them entertaining job applicants.[23] She said that it was actually Castro who told Mah to interview private complainants at the Jamila office.[24] Mah went to Jamila sometime on May 24, 1993 to deliver documents regarding job openings in Singapore and Malaysia.[25] On that same day, private complainants happened to be at the Jamila office.[26]

Appellant also claimed that private complainants later transacted business with Mah without the knowledge of Jamila. According to her, Lani Platon told her that private complainants were supposed to leave on June 6, 1993.

Also for the defense, witness AMADO PANCHIA testified that he came to know appellant when he was applying for a job abroad through Jamila. He claimed that he was at the Jamila office on May 30, 1993 and saw some people, presumably private complainants, inside appellant’s office.[27] He met Lani Platon and asked her what she was doing at Jamila. Platon allegedly replied that she was recruiting female workers for jobs abroad. She introduced Pancha to her Singaporean companion, Steven Mah.[28] Thereafter, according to Pancha, private complainants gave Platon an envelope containing money that Platon put inside her bag. Private complainants then handed Platon a piece of bond paper with something typewritten on it, which the latter signed.[29] Appellant signed on the same piece of paper.

In a decision dated December 11, 1995, the trial court found appellant guilty as charged, thus:

WHEREFORE, judgment is rendered as follows:

- In Criminal Case No. 95-653, the accused is sentenced to life imprisonment and to pay a fine of P100,000.00 and the costs;
- In Criminal Case No. 95-654, she is sentenced to suffer imprisonment from two (2) years, four (4) months and one (1) day of prision correccional to six (6) years and one (1) day of prision mayor; to indemnify Jenelyn Quinsaat the sum of P15,000.00, and to pay the costs;
- In Criminal Case No. 95-655, she is sentenced to suffer imprisonment from two (2) years, four (4) months and one (1) day of prision correccional to six (6) years and one (1) day of prision mayor; to indemnify Rosario Cadacio the sum of P15,000.00, and to pay the costs;
- In Criminal Case No. 95-656, she is sentenced to suffer imprisonment from two (2) years, four (4) months and one (1) day of prision correccional to six (6) years and one (1) day of prision mayor; to indemnify Honorina Mejia the sum of P15,000.00; and to pay the costs.

SO ORDERED.[30]

Hence, this appeal. Appellant contends that the trial court erred:

I

... IN NOT FINDING THAT EXHIBITS “3”, “4” AND “16” ARE CREDIBLE AND COMPETENT PROOFS THAT THE COMPLAINANTS TRANSACTED WITH AND GAVE THEIR MONEY TO LANI PLATON AND STEVEN MAH IN CONNECTION WITH THEIR APPLICATIONS FOR OVERSEAS EMPLOYMENT.

II

... IN NOT FINDING THAT THE VERSIONS OF THE COMPLAINANTS ARE NOT CREDIBLE.

III

... IN GIVING PROBATIVE VALUE [TO] THE TESTIMONY OF WITNESS EVELYN LANDRITO.

IV

... IN FINDING THE APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.[31]

Essentially, appellant is assailing the credibility of the witnesses presented by the prosecution, while shifting by way of her defense the onus of illegal recruitment and estafa to third parties in order to create a reasonable doubt.

Time and again, however, the trial court’s assessment concerning the credibility of witnesses and their testimony has been sustained and accorded great weight by appellate courts, because of the trial court’s vantage position to observe firsthand the witnesses’ demeanor and deportment in the course of their testimony under oath. The exception is when the trial court has overlooked or misapprehended certain facts or circumstances that, if considered, would alter the result of the case.[32]

In this case, we find no exceptional facts or circumstances, hence no reason to deviate from the general rule. The trial court’s findings and conclusions are duly supported by the evidence on record, thus there is no sufficient reason to disturb them.

In Criminal Case No. 95-653, appellant was charged with illegal recruitment in large scale. For such a charge to prosper, the following elements must concur: (1) the accused was engaged in recruitment activity defined under Article 13 (b), or any prohibited practice under Article 34 of the Labor Code; (2) he or she lacks the requisite license or authority to lawfully engage in the recruitment and placement of workers; and (3) he or she committed such acts against three or more persons, individually or as a group.[33]

Article 13 (b) of the Labor Code provides:

ART. 13. Definitions. -- xxx

(b) “Recruitment and placement” refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contact 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.

We are convinced that private complainants, the main witnesses for the prosecution, were enticed by appellant to apply for jobs abroad. The three private complainants filled up application forms at appellant’s house, and each paid appellant the amount of P15,000 as placement fee. However, she acted without license or lawful authority to

conduct recruitment of workers for overseas placement. The POEA's licensing branch issued a certification stating that appellant, in her personal capacity, was not authorized to engage in recruitment activities.[34] Evelyn Landrito, general manager of the placement agency where appellant used to work, denied that the scope of appellant's work included recruiting workers and receiving placement fees. Such lack of authority to recruit is also apparent from a reading of the job description of a marketing consultant,[35] the post that appellant occupied at Jamila and Co.

In the face of evidence pointing to her wrongdoing, appellant only offers denials, while pointing to an alleged ill motive on the part of private complainants that prompted them to testify against her. According to appellant, private complainants failed to find the responsible parties, namely Steven Mah and his companion Lani Platon, and so are now going after her.

Appellant's arguments fail to persuade us of her innocence. The defense of denial is intrinsically weak, a self-serving negative evidence that cannot prevail over the testimony of credible witnesses who testified on affirmative matters.[36]

In *People vs. Hernandez*, we held:

For appellant to say that she was merely chosen as a scapegoat for appellees' misfortune, having failed to bring the alleged real recruiter to justice, does not appear well-founded. It is but a hasty generalization of no probative significance. Without credible evidence proffered by the defense, bad faith or ulterior motive could not be imputed on the part of the appellees in pointing to the accused as the illegal recruiter who victimized them. When there is no showing that the principal witnesses for the prosecution were actuated by improper motive, the presumption is that the witnesses were not so actuated and their testimonies are thus entitled to full faith and credit.[37]

Further, appellant faults the trial court for not finding the receipts and fax message she presented in evidence as competent and credible proofs of the alleged transaction between private complainants and Steven Mah and Lani Platon. Appellant insists that it was Lani Platon, not her, who received private complainants' placement fees. According to her, Platon even issued receipts to prove that she had taken the money. But mere insistence on her part that Platon was the culprit could not defeat positive testimonies of complainants to the contrary.

Indeed, it would have been easy for private complainants to pin down Platon if she were the one who received the money and issued the corresponding receipts. Private complainants would have had the receipts to prove their claim. But why would private complainants not go after Platon if they had evidence to prove that she took their money? If appellant's assertions were true, there would have been no rhyme nor reason for private complainants to file a case against appellant and go through the rigors and expenses of a court trial if somebody else caused them harm. We note that the natural tendency of one who has been wronged is to seek redress from the person who caused the harm or injury, not from anyone else.

Defense witness Amado Pancha attempted to corroborate appellant's testimony that private complainants handed their money to Lani Platon and not to appellant. However, Pancha did not specifically identify the persons whom he allegedly saw handing Platon an envelope containing money. He only said that there were visitors inside appellant's office, that they were "four girls",[38] and that he would be able to identify them if he sees them again. However, he was not asked to identify the alleged four girls nor the private complainants in any way. His testimony is patently incomplete, with hardly any probative value.

Anent appellant's conviction for estafa in Criminal Cases Nos. 95-654 to 95-656, we find no error committed by the trial court. Their conviction and sentence are fully supported by the evidence on record. For charges of estafa to prosper, the following elements must be present: (1) that the accused defrauded another by abuse of confidence

or by means of deceit, and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person.[39] In this case, appellant clearly defrauded private complainants by deceiving them into believing that she had the power and authority to send them on jobs abroad. By virtue of appellant's false representations, private complainants each parted with their hard-earned money. Each complainant paid P15,000 as recruitment fee to appellant, who then appropriated the money for her own use and benefit, but failed utterly to provide overseas job placements to the complainants. In a classic rigmarole, complainants were provided defective visas, brought to the airport with their passports and tickets, only to be offloaded that day, but with promises to be booked in a plane flight on another day. The recruits wait in vain for weeks, months, even years, only to realize they were gypped, as no jobs await them abroad. No clearer cases of estafa could be imagined than those for which appellant should be held criminally responsible.

WHEREFORE, the appealed decision of the Regional Trial Court, Makati City, Branch 132, is hereby AFFIRMED. In Criminal Case No. 95-653, for illegal recruitment in large scale, appellant NIMFA REMULLO is found guilty and sentenced to life imprisonment and to pay a fine of P100,000; and in Criminal Cases Nos. 95-654, 95-655 and 95-656 for estafa, she is declared guilty sentenced in each case to two (2) years, four (4) months and one (1) day of prision correccional to six (6) years and one (1) one day of prision mayor, and to pay by way of restitution P15,000 to each of the private complainants, Jenelyn Quinsaat, Rosario Cadacio and Honorina Mejia, together with the costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, De Leon, Jr., and Corona, JJ., concur.

[1] Rollo, pp. 179-191; Records, pp. 223-236.

[2] Id. at 179; Records, p. 2.

[3] Id. at 179-180; Records, p. 3.

[4] Id. at 180-181; Records, pp. 4-5.

[5] Records, p. 34.

[6] Private complainants were unclear as to what exactly this requirement is. They separately referred to it as "registration", "certification", and "requirement".

[7] TSN, August 7, 1995, pp. 18-19.

[8] Records, p. 105.

[9] TSN, August 23, 1995, p. 5.

[10] Id. at 8-9, 36.

[11] Id. at 29-30.

[12] TSN, October 27, 1995, pp. 4-6.

[13] TSN, September 15, 1995, pp. 18-23.

[14] Id. at 28.

[15] Id. at 32.

[16] Spelled in the TSN as “money field”, but as “manifield” in Exhibit 12. See records, pp. 159-161.

[17] TSN, September 15, 1995, p. 27.

[18] Id. at 27-28.

[19] Id. at 34.

[20] Records, p. 151.

[21] Id. at 171.

[22] TSN, September 20, 1995, p. 7.

[23] TSN, September 25, 1995, p. 6.

[24] Id. at 20-21.

[25] Id. at 16.

[26] Id. at 17.

[27] TSN, October 9, 1995, p. 4.

[28] Id. at 5-6.

[29] Id. at 7.

[30] Id. at 236.

[31] Rollo, pp. 168-169.

[32] People vs. Toledo, Sr., et al., G.R. No. 139961, May 9, 2001, p. 10.

[33] People vs. Arabia, et al., G.R. No. 138431-36, September 12, 2001, pp. 10-11.

[34] Records, p. 106.

[35] Id. at 116.

[36] People vs. Hernandez, G.R. No. 108027, 304 SCRA 186, 194 (1999).

[37] Ibid.

[38] TSN, October 9, 1995, p. 4.

[39] People vs. Arabia, et al., G.R. Nos. 138431-36, September 12, 2001, p. 12.

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