

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELENA VERANO Y ABANES, ACCUSED-APPELLANT.

G.R. Nos. 90017-18. March 01, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

ELENA VERANO Y ABANES was convicted[1] of the crimes of illegal recruitment in large scale[2] and estafa[3] in two (2) separate Informations[4] filed before the Regional Trial Court of Manila and sentenced thus -

(a) In Crim. Case No. 88-61017, this court finds the accused guilty beyond reasonable doubt of the crime of illegal recruitment in large scale as defined under par. (b) of Art. 38 in relation to Art. 39 of the New Labor Code of the Philippines; and this court hereby sentences the said accused to suffer the penalty of life imprisonment and to pay a fine of P100,000.00; and to pay to the offended parties, Arturo Espiel and Alfonso Abanes, the sums of P10,000.00, and P7,150.00, respectively, plus interest thereon at the legal rate of 12% per annum from the date of filing of the Information on February 22, 1988. The damages due to the third offended party, Jose Daep, is taken care of in the estafa case, Crim. Case No. 88-61018.

(b) In Crim. Case No. 88-61018, the court finds the accused guilty beyond reasonable doubt of the crime of estafa; and this court hereby sentences the accused to suffer an indeterminate sentence of SIX (6) YEARS of prision correccional, maximum period, as minimum penalty, to NINE (9) YEARS of prision mayor medium period, as maximum penalty, and to pay to Jose Daep, the sole complaining offended party in this case, the sum of P15,000.00 as actual damages plus interest thereon at the legal rate of 12% per annum from the date of filing of the Information on February 22, 1988.

As found by the trial court, sometime in October 1987, accused-appellant Elena Verano y Abanes persuaded the three (3) private complainants, Jose Daep, Arturo Espiel and Alfonso Abanes to accept overseas employment as salesmen in Bahrain. In consideration thereof, Alfonso, Arturo and Jose were required to pay P10,000.00 each to cover the expenses for the processing of their travel papers, i.e., passports, visas and the cost of their plane tickets, medical examination and recruitment fees. Jose paid the total amount of P15,000.00 while Arturo and Alfonso paid P10,000.00 and P7,150.00, respectively. They were issued separate receipts by accused-appellant.[5] To further convince them of her capacity to send them abroad, accused-appellant even signed a contract of employment with her as employer and Arturo as employee.[6]

Assured that they could depart for Bahrain on 27 December 1987, Alfonso, Jose and Arturo went to the Ninoy Aquino International Airport and waited for accused-appellant who was supposed to meet them there to deliver their passports, visas and plane tickets. When she failed to show up, the three (3) recruits proceeded to her residence and there waited for her until she returned four (4) days later. By way of explanation, they were told that their passports and visas were still being processed but were promised they could leave for their overseas jobs on 15 January 1988.

Again, the three (3) hopefuls proceeded to the NAIA but, like before, accused-appellant failed to show up. This time they were told that they could definitely leave on 13 February 1988. However, on the appointed date and

time, accused-appellant failed to show up for the third time. Jose, Arturo and Alfonso then went to the Western Police District Headquarters to lodge their complaint. Accused-appellant was arrested on the same day and charged with illegal recruitment committed in large scale, and estafa, with Jose Daep as the lone complainant in the latter case. After trial, Elena Verano y Abanes was found guilty in both cases.

In her Brief filed by the Public Attorney's Office,[7] accused-appellant contends that the trial court gravely erred when it imposed the penalty of life imprisonment for the large scale illegal recruitment for the reason that it was too harsh in the light of her good faith in just wanting to help the private complainants secure employment abroad.

However, in her Supplemental Brief and Reply[8] filed by her counsel de parte, Atty. Mariano R. de Joya, Jr., accused-appellant changed her position.[9] Instead of pursuing her attack on the "harshness" of the penalty imposed, she now disputes the findings of fact. Thus she argues that, contrary to the trial court's findings, she never represented herself as having the capacity to contract workers for overseas employment; that she merely introduced private complainants Jose, Arturo and Alfonso to a certain Juliet Majestrado who was the one who claimed to have such capacity; and, with respect to her conviction for estafa, she argues that although she herself issued the receipts marked Exhs. "C," "E," "E--1," "E-2" and "H," she never profited from the money paid as it was all given to and personally received by Juliet Majestrado.

Appellant's argument is obviously without merit in the light of the well-settled doctrine that findings of fact made by the trial court are final and conclusive and cannot be reviewed on appeal.[10] Except for a few recognized instances,[11] which do not apply in the case at bench, such findings are binding and will not be reviewed by us for this Court is not a trier of facts. The issues raised by appellant are purely and undisputably factual, as she herself admits.[12] Considering that none of the exceptions apply, as aforesaid, we would not be justified in reversing the judgment of conviction. Hence, the appeal must fail.

WHEREFORE, the Decision of the court a quo convicting accused-appellant ELENA VERANO Y ABANES of the crimes of illegal recruitment committed in large scale (Crim. Case No. 88-61017) and estafa (Crim. Case No. 88-61018) is AFFIRMED in toto. Costs against accused-appellant.

SO ORDERED.

Cruz, (Chairman), Quiason, and Kapunan, JJ., concur.

Davide, Jr., J., in the result.

[1] Decision penned by Judge Sabino R. de Leon, Jr., Regional Trial Court, Br. 28, Manila; Rollo, pp. 26 - 36.

[2] 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.

(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group x x x x

Art. 39. Penalties. - (a) The penalty of life imprisonment and a fine of One Hundred Thousand Pesos (P100,000)

shall be imposed if illegal recruitment constitutes economic sabotage x x x x

[3] By using fictitious name, or falsely pretending to possess power, influence, qualification, property, credit, agency, business or imaginary transactions, or by means of other similar deceits (Art. 315, par. 2 [a], Revised Penal Code).

[4] Docketed as Crim. Cases Nos. 88-61017 and 88-61018, respectively.

[5] Exhs. "C," "E," "E-1," "E-2" and "H."

[6] Exh. "G."

[7] Rollo, p. 46.

[8] Id., pp. 78 - 87.

[9] Supplemental Brief and Reply, p. 1; Rollo, p. 78.

[10] Surban v. Court of Appeals, G. R. No. 98457, 1 March 1993, 219 SCRA 309, 312; Donato v. Court of Appeals, G. R. No. 102603, 18 January 1993, 217 SCRA 196, 203; Paulmitan v. Court of Appeals, G. R. No. 61584, 25 November 1992, 215 SCRA 866, 875; People v. Bechayda, G. R. No. 72001, 7 August 1992, 212 SCRA 336, 348; People v. Pajares, G. R. No. 96444, 23 June 1992, 210 SCRA 237, 244; People v. Diga, G. R. No. 94546, 24 April 1992, 208 SCRA 306, 315; De Ocsio v. Court of Appeals, G. R. No. 44237, 28 February 1989, 170 SCRA 729, 732; People v. Raquinio, No. L-16488, 12 August 1966, 17 SCRA 914, 917-918.

[11] (1) When the conclusion is a finding grounded entirely on speculations; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; and, (5) when the court, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both appellant and appellee (People v. Rivera, G.R. No. 86491, 11 December 1992, 216 SCRA 363, 374).

[12] Supplemental Brief and Reply, p. 2; Rollo, p. 79.

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