

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DINO ALFORTE Y JABAGAT, JANE DOE, JOHN DOE, PETER DOE AND MERRY (SIC) DOE, ACCUSED. DINO ALFORTE Y JABAGAT, ACCUSED-APPELL...

G.R. Nos. 91711-15. March 03, 1993

Ponente: NOCON, J.

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NOCON, J.:

In an Information dated February 13, 1989, Dino Alforte, Jane Doe, John Doe, Peter Doe and Merry (sic) Doe were charged with illegal recruitment under P.D. No. 442, as amended by P.D. No. 2018, in Criminal Case No. Q-89-2114 before the Regional Trial Court of Quezon City, Branch CIII, which reads as follows:

“That on or about the period comprised from September 9, 1989, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, without any authority of law and for a fee, did then and there, willfully, unlawfully and feloniously, recruit and promise employment and/or job placement abroad to the following persons, namely:

LEONORA HAPATINGA Y LOZANO,
NATIVIDAD HENSON Y PEREZ,
ALFREDO DELA ROSA Y SABINO
FE LOZANO Y MADAYAG,

without first obtaining the required license and/or authority from the Department of Labor and Employment.

“That the crime is committed in a large scale tantamount to economic sabotage.”

That same date, four other informations were filed in Criminal Case Nos. Q-89-2115, Q-89-2116, Q-89-2117 and Q-89-2118, charging the same persons with the crime of Estafa under Article 315 of the Revised Penal Code, which reads:

In Criminal Case No. Q-89-2115:

“That on or about the period comprised from October 2, 1988 to January 9, 1989 in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring together, confederating with and mutually helping one another, by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then and there, willfully, unlawfully and feloniously defraud one FE LOZANO Y MADAYAG, in the following manner to wit: The said accused by means of false manifestations and fraudulent representations which were made to the herein complainant to the effect that they have the power, influence and capacity to recruit and secure employment for her in Saipan, Hongkong, and could facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirements thereof, that on the strength of said manifestations and representations, induced and succeeded in inducing the said complainant to give and deliver, as in fact, the latter gave and delivered the total amount of P15,255.00, Philippine Currency, said accused knowing fully well that the same were false and

fraudulent and were made only to obtain as in fact, they obtained the aforesaid amount, which amount once in their possession with intent to defraud, misapplied, misappropriated and converted to their own personal use and benefit, to the damage and prejudice of said offended party in the amount afore-mentioned and in such other amount as may be awarded under the provisions of the New Civil Code.”

In Criminal Case No. Q-89-2116:

“That on or about the period comprised from November 28 to November 29, of 1988, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring together, confederating with and mutually helping one another, by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then and there, willfully, unlawfully and feloniously defraud one LEONORA HAPATINGA Y LOZANO, in the following manner to wit: the said accused by means of false manifestations and fraudulent representations which were made to the herein complainant to the effect that they have the power, influence and capacity to recruit and secure employment for her in Saipan, Hongkong, and could facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirements thereof, that on the strength of said manifestations and representations induced and succeeded in inducing the said complainant to give and deliver, as in fact, the latter gave and delivered the total amount of P29,100.00, Philippine Currency, said accused knowing fully well that the same were false and fraudulent and were made only to obtain as in fact, they obtained the aforesaid amount, which amount once in the possession with intent to defraud, misapplied, misappropriated and converted to their own personal use and benefit, to the damage and prejudice of the said offended party in the amount aforementioned and in such other amount as may be awarded under the provisions of the New Civil Code.”

In Criminal Case No. Q-89-2117:

“That on or about the period comprised from November 29, 1988 to January, 1989, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring together, confederating with and mutually helping one another, by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then and there, willfully, unlawfully and feloniously defraud one ALFREDO DELA ROSA Y SABINO, in the following manner to wit: the said accused by means of false manifestations and fraudulent representations which were made to the herein complainant to the effect that they have the power, influence and capacity to recruit and secure employment for him in Saipan, Hongkong, and could facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirements thereof, that on the strength of said manifestations and representations, induced and succeeded in inducing the said complainant to give and deliver, as in fact, the latter gave and delivered the total amount of P20,500.00, Philippine Currency, said accused knowing fully well that the same were false and fraudulent and were made only to obtain as in fact, they obtained the aforesaid amount, which amount once in their possession with intent to defraud, misapplied, misappropriated and converted to their own personal use and benefit, to the damage and prejudice of said offended party in the amount aforementioned and in such other amount as may be awarded under the provisions of the New Civil Code.”

In Criminal Case No. Q-89-2118:

“That on or about the period comprised from November 5, 1988 to December 1, 1989, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then and there, willfully, unlawfully and feloniously defraud one NATIVIDAD HENSON Y PEREZ, in the following manner to wit: the said accused by means of false manifestations and fraudulent representations which were made to the herein complainant to the effect that they have the power, influence and capacity to recruit and secure employment for her in Saipan,

Hongkong, and could facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirements thereof, that on the strength of said manifestations and representations, induced and succeeded in inducing the said complainant to give and deliver, as in fact, the latter gave and delivered the total amount of P10,850.00, Philippine Currency, said accused knowing fully well that the same were false and fraudulent and were made only to obtain as in fact, they obtained the aforesaid amount, which amount once in their possession with intent to defraud, misapplied, misappropriates and converted the same to their personal use and benefit, to the damage and prejudice of said offended party in the amount as may be awarded under the provisions of the New Civil Code.”

All five cases were tried jointly and a decision was rendered finding accused-appellant guilty of the crime charged against him, the dispositive portion of which reads:

“ACCORDINGLY, judgment is hereby rendered finding the accused DINO ALFORTE Y JABAGAT GUILTY as principal in all the herein cases, except in Q-89-2118 for estafa, and he is hereby sentenced to serve the herein below mentioned imprisonment terms, as follows:

1. In Q-89-2114 for violation of P.D. 442 as amended, for a jail term of reclusion perpetua and to pay a fine of One Hundred Thousand Pesos (P100,000.00);
2. In Q-89-2115 for violation of Article 315, Revised Penal Code on estafa, for a jail term of two (2) years as minimum and six (6) years as maximum;
3. In Q-89-2116 for violation of Art. 315, RPC, or a jail term of two (2) years as minimum and six (6) years maximum; and
4. In Q-89-2117 for a jail term of two (2) years minimum and six (6) years as maximum.

As to the civil aspect of these cases, the accused Dino Alforte y Jabagat is ordered as follows:

1. In Q-89-2115, to pay the offended party Fe Lozano y Madayag the sum of P15,255.00 as actual damages and P15,000.00 as moral and corrective damages, illegal recruitment without license and fraudulent demand for money from innocent poor and ordinary workers now quite widespread, needing strict corrective measures to protect suffering workers of this Republic.
2. In Q-89-2116, to pay the offended party Leonora Hapatinga the sum of P29,100.00 as actual damages and P29,000.00 as moral and corrective damages for the same above-mentioned reasons; and
3. In Q-89-2117, to pay the offended party Alfredo dela Rosa y Sabino the sum of P20,500.00 as actual damages and P20,000.00 as moral and corrective damages for the same reasons as above-mentioned.

As to case No. Q-89-2118 wherein the complainant is Natividad Henson y Perez, the said case against Dino Alforte is DISMISSED for lack of sufficient evidence.

SO ORDERED.”[1]

Hence, this appeal.

The facts of the case are as follows:

Leonora Lozano Hapatinga was residing at 86 J.P. Ramoy St., Caloocan City and had as her neighbors among others, Brigida de Guzman, Femmy Flores and Alex Cordova.

Brigida happened to be a former classmate and close friend of Leonora’s elder sister, Fe Lozano. At one time, Brigida told Fe that she was with a group recruiting workers for jobs abroad and inquired if she was interested in applying for overseas employment. Fe replied that she is interested and so, on or about the first week of

September, 1988, Brigida introduced a certain Dino Alforte (herein accused-appellant) and Alex Cordova to Fe at the Taza de Oro Restaurant, United Nations near the Savory restaurant.

Accused-appellant started saying that Fe could work as a waitress in Saipan provided she pays for the preparation and processing of the necessary papers. Fe describes Dino as “well-dressed at that time and maganda ang dating ng kanyang salita.”[2]

Fe, then, told her sister, Leonora about what Dino Alforte told her regarding the offer for employment overseas.

Consequently, on or about the last week of September 1988, Brigida and Femmy introduced Leonora to Dino at the residence of Fe at Villa Sabina Subdivision, Novaliches, Quezon City. Dino was then with Brigida, Femmy, Alex and Chito Flores.[3]

Dino reiterated his offer to Leonora and Fe for employment abroad. He promised Fe to work as a food server and Leonora to work as a waitress in Saipan, Guam. He further said that they could leave in a month’s time as long as they pay P1,700.00 for their passport, P2,500.00 as processing fee, P2,000.00 reservation fee, P20,000.00 placement fee for Leonora and P12,000.00 placement fee for Fe. Leonora inquired from, and was informed by Dino that he and company belonged to Crista Agency and Art Salonga Agency and were recruiters on a direct-hire basis.[4]

Dino asked them to sign a blank application form showing, among others, the amount of salary and the place where the two sisters would work. He even assured them that they would no longer spend Christmas in the Philippines.[5]

In the meantime, Brigida and Fe told Alfredo dela Rosa, who happened to be a close friend of Fe about their supposed employment abroad. They told him that if he was interested, he must prepare the money needed for processing his papers.

On October 2, 1988, Fe started paying by installment to Dino until she completed payment amounting to P15,255.00 as of January 9, 1989.[6]

Fe was issued receipts[7] signed by Brigida and Alex Cordova.

On November 28, 1988, Leonora paid the following amounts[8] to Dino at Brigida’s house:

- P 2,500.00 Processing Fee
- P 20,000.00 Placement Fee
- P 1,700.00 Passport Fee
- P 1,000.00 Travelling Tax
- P 850.00 Training Fee
- P 450.00 Medical Fee
- P 600.00 DHL

On November 29, 1988 at Fe’s house, Leonora paid Dino P2,000.00 as reservation fee.[9] She requested for a receipt but Dino told her that it was Alex Cordova who was in charge of signing receipts and the same will just be delivered the following day.

Leonora complained to her neighbors, Brigida and Femmy about the non-issuance of receipts.[10] Brigida then, finally issued a receipt signed by her.[11]

It was about this time when Alfredo dela Rosa met Dino and company for the first time. Dino offered Alfredo a supervisory job in Nikko Hotel, Saipan. Dino and company then told him to pay an initial amount of P10,000.00 as placement fee which the latter did. At a later time, Alfredo made two additional payments to Dino, to wit:

P5,000.00 as royalty fee and another in the amount of P5,500.00.

Repeated promises were made by Dino and his group but no one left for Saipan. Fe decided to get back her money. She went to Brigida's house to inquire about the whereabouts of Brigida, Dino, Alex, Chito and Femmy. However, no one could be found.

It was when one of the neighbors saw Dino at Brigida's house and Fe was alerted thereto. Dino was apprehended by the police authorities and a complaint was filed against him.

Accused-appellant, Dino Alforte y Jabagat is presently detained at the New Bilibid Prison, Muntinlupa.

Appellant predicates his defense on denial.

We are not persuaded.

Overwhelming is the evidence that accused-appellant is guilty of illegal recruitment involving economic sabotage under Article 38 of the Revised Penal Code in relation to Article 39 of P.D. No. 442, as amended by P.D. No. 2018, in Criminal Case No. Q-89--2114, and of three counts of estafa through false pretenses under Article 315, Par. 2 (a) of the Revised Penal Code in Criminal Cases Nos. Q-89-2115, Q-89-2116 and Q-89-2117.

The evidence on record show that Dino Alforte was neither a duly licensed recruiter nor was he authorized to engage in any recruitment activity; that he and his companions represented themselves to be connected with the Crista and Art Salonga Agency, and recruited Leonora Hapatinga as waitress, Fe Lozano as food server, and Alfredo de la Rosa as supervisor at the Nikko Hotel in Saipan, Guam; that in the course thereof he persuaded the three complainants to give him money for placement for processing fee, medical fee etc.; that he can fix their papers and documents needed for their departure for their jobs abroad on December, 1988 or January, 1989, which he assured them is in Saipan, Guam, which, however, is false and untrue as he has no power, influence, capacity or ability to do so.

Accused-appellant Alforte contends that the real culprits were Brigida de Guzman, Alex Cordova, Chito Flores and Femmy Flores and that he was merely implicated to compel him to divulge the whereabouts of the alleged culprits which he knows nothing about. He gave the following circumstances to prove his innocence:

First, Leonora Hapatinga's testimony inter alia that Brigida de Guzman and Femmy Flores are her neighbors allegedly proves that the latter two are her recruiters and the recipients of the money she gave as placement fee, etc.;

Second, Leonora Hapatinga's testimony inter alia that she did not inquire as to the kind of person or the address of Dino Alforte because she "trusted them" meaning Alforte's companions and therefore, she could not have given the money to the former but to said companions, namely, Brigida de Guzman, Femmy Flores, Alex Cordova and Chito Flores;

Third, Alfredo dela Rosa's testimony that Dino Alforte was with Brigida de Guzman, Femmy Flores, Alex Cordova and Chito Flores when he met him for the first time and gave the latter P10,000.00, goes to prove the incredibility of said witness testimony. No one in his right mind would give a person whom he had just met for the first time a big amount of money.

Fourth, the receipts issued to Leonora Hapatinga and Fe Lozano were not signed by accused-appellant; and

Lastly, his going to Brigida's house on February 8, 1989 where he was apprehended in possession of some passports shows his innocence of the crime imputed to him.

The foregoing contentions are devoid of merit.

It is to be observed that it was through Brigida that Leonora, Fe and Alfredo met Dino; that Brigida, together with Alex and Femmy, as well as Dino and Chito, allegedly belong to a group connected with the Art Salonga recruitment agency and the Crista Agency; and that it was Dino himself who represented the group as being connected with the recruitment agency and capable of placing complainants abroad in certain specified jobs in exchange for certain fees. It was accused-appellant's assurances and promises of employment abroad which had induced them to part with large sums of money. Brigida, Alex and Femy are all neighbors of complainant Leonora Hapatinga, Brigida being a close friend and former high school classmate of complainant Fe Lozano.

Records show that Brigida and Fe had conversed with the latter's close friend, Alfredo dela Rosa, prior to the latter's first meeting with Dino, wherein they told him of Dino's offer of employment abroad and that if he was interested, to prepare P10,000.00. Indeed, had Brigida not been the effective inducer for the release of the said money, Alfredo would not have sought to meet with Dino in the first place. It was only when he met the whole group of "recruiters" and upon Dino's offer of the position of supervisor at the Nikko Hotel in Saipan and the promise that he would leave by December 1988 that he parted with his money and gave it to Dino. Alfredo trusted the group implicitly because Fe Lozano and Brigida de Guzman are childhood friends and they trusted Dino so much so that if Fe Lozano and the others would trust him why would he not also trust him.[12]

The five culprits including accused-appellant represented themselves as a group; hence when private complainants paid the sums of money to accused-appellant, the issuance of the receipts by the other members would be entirely reasonable and proper. In fact, this delineation of their respective roles strongly shows that the group were acting in concert in the defraudation of private complainants.

Accused-appellant's denial cannot prevail over the positive assertions of complainants, who had no motive to testify falsely against him except to tell the truth.

The trial court's keen observation on the demeanor and manner of testifying of the witnesses presented during trial showed the correctness of its appreciation of the evidence on record. Said the Court:

"The Court had closely observed the court demeanor of these three complainants and is quite impressed by the natural and spontaneous delivery of their response to both the direct and, cross examination questions propounded to them, especially the cross-examination which was always lengthy and in-depth to the extent that these witness sometimes committed inconsistencies on the dates of contact with Dino and his friends and the date of delivery by the witnesses of their money, which inconsistencies are minor ones rather than demean, serve to enhance the veracity of their testimonies. In turn, Dino's testimony, delivered by one who looked like a statue, appears to be rehearsed.

"The theory of Dino that he met the complainants only after the arrest does not sound credible in the face of the three well-corroborated testimonies that the smooth, sweet-talking Dino, whose outward appearance in those days exuded confidence, was well-known to them as he was always the one receiving their installment payments while his cohorts would assure the recruits that they will issue -- as in some instances they did-- receipts therefor. It does appear that there was a conspiracy with each conspirators playing a defined role. Indeed, even Dino admitted carrying passports for certain persons to the house of Brigida. His excuse that he only served as a driver for Brigida is a lame one. If he were a mere driver or passenger of Brigida, the three complainants could not possibly have so emphatically exculpated him in these very serious charges wherein said accused has even been defended by defense counsel of long-standing prominence in this City who cross-examined all witnesses very lengthily consuming more than the ordinary period for cross-examination." [13]

Well settled is the rule that appellate courts will generally not disturb the factual findings of the trial court since the latter are in a better position to weigh conflicting testimonies, having heard the witnesses themselves and

observed their deportment and manner of testifying, unless it is found that the trial courts have overlooked certain facts of substance and value that, if considered, might affect the result, which We do find in the case at bar.[14]

WHEREFORE, there being no reversible error in the appealed decision, the same is hereby AFFIRMED in toto. SO ORDERED.

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

[1] Rollo, p. 24.

[2] T.S.N., August 2, 1989, pp. 32-33.

[3] T.S.N., July 3, 1989, pp. 8-11.

[4] Id. at pp. 18-19; T.S.N., August 2, 1989, pp. 7--11.

[5] T.S.N., August 2, 1989, pp. 13-15.

[6] Exhibit "C", T.S.N., August 2, 1989, pp. 9-12, 17-18, 35.

[7] Exhibit "C", "C-1" and "C-2", Records, p. 62.

[8] Exhibit "A", Records, p. 59; T.S.N., July 3, 1989, pp. 11, 36; T.S.N., July 5, 1989, p. 4.

[9] T.S.N., July 3, 1989, pp. 38, 41; T.S.N., July 5, 1989, p. 5.

[10] Id., at p. 46.

[11] Id., at p. 47.

[12] T.S.N., September 5, 1989, p. 27.

[13] RTC Decision, pp. 4-5, Rollo, pp. 68-69.

[14] People vs. Tismo, 204 SCRA 535.

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