

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUCILLE SENDON, ACCUSED-APPELLANT.

G.R. Nos. 95903-05. June 08, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the August 8, 1990 decision* of the Regional Trial Court, Fifth Judicial Region, Branch 35 of Iriga City in Criminal Cases Nos. IR-2577, 2582 and IR-2592, finding the accused Lucille B. Sendon guilty beyond reasonable doubt of the crime of ILLEGAL RECRUITMENT IN LARGE SCALE as defined in Section 38 of the Labor Code, as amended by Presidential Decrees Numbers 1920 and 2018.

The appellant was charged in three separate Informations filed by City Prosecutor Reno R. Gonzales of Iriga City.

The Information in Criminal Case No. IR-2577, reads as follows:

“The undersigned City Prosecutor hereby accuses LUCILLE B. SENDON who is presently under detention and an unidentified person known presently only as MARITES “DOE” and at large, all residents of San Miguel, Iriga City of the crime of ILLEGAL RECRUITMENT defined under Art. 38 of P.D. 442 (Labor Code) as amended by P.D. 1693, P.D. 1920 and P.D. 2018 and penalized under Art. 39 of the same laws, committed as follows:

“That on or about the 5th day of October 1988 in Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating with each other and representing to be legitimate labor recruiters, with intent to defraud and without authority of law or license from the Department of Labor and Employment, did then and there willfully, unlawfully and feloniously, defraud one Bernie de Villa, the amount of Fifteen Thousand (P15,000.00) Pesos, Philippine Currency, under promise to employ him in the Sultanate of Oman as bellboy with a salary of \$250 U.S. Dollars a month and to work for his travel papers, all of which have not been realized up to the present time, inspite of many excuses and promises, and despite repeated demands to return said amount, accused failed and refused to do so, to his damage and prejudice in the aforesaid amount.

“That one Arnel V. Ibias and Gerardo P. Escano were also defrauded of undetermined amounts each by said accused under the same style of recruitment, thus, this illegal recruitment is committed in large scale, hence, now classified as an offense involving economic sabotage.

“CONTRARY TO LAW.” (Original Record, pp. 1-2).

The Information in Criminal Case No. IR-2582 reads:

“The undersigned City Prosecutor hereby accuses LUCILLE B. SENDON who is presently under detention and an unidentified person known presently only as MARITES “DOE” and at large, all residents of San Miguel, Iriga City of the crime of ILLEGAL RECRUITMENT defined under Art. 38 of P.D. 442 (Labor Code) as amended by P.D. 1693, P.D. 1920 and P.D. 2018 and penalized under Art. 39 of the same code, committed as follows:

“That on or about the 8th day of October 1988 in Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating with each other and representing to be legitimate labor recruiters, with intent to defraud and without authority of law or license from the Department of Labor and Employment, did then and there willfully, unlawfully and feloniously, defraud one Arnel V. Ibias, the amount of SIXTEEN THOUSAND FIVE HUNDRED (P16,500.00) PESOS, Philippine Currency, under promise to employ him in the Sultanate of Oman as a Security Guard with a salary of \$280 U.S. Dollars a month and to work for his travel papers, all of which have not been realized up to the present time, inspite of many excuses and promises, and despite repeated demands to return said amount, accused failed and refused to do so, to his damage and prejudice in the aforesaid amount.

“That one Bernie de Villa and Gerardo P. Escano were also defrauded of undetermined amounts each by said accused under the same style of recruitment, thus, this illegal recruitment is committed in large scale, hence, now classified as an offense involving economic sabotage.

“CONTRARY TO LAW.” (Original Record, pp. 1-2).

And the Information in Criminal Case No. IR-2592 reads:

“The undersigned City Prosecutor hereby accuses LUCILLE B. SENDON who is presently under detention and an unidentified person known presently only as MARITES “DOE” and at large, all residents of San Miguel, Iriga City of the crime of ILLEGAL RECRUITMENT defined under Art. 38 of P.D. 442 (Labor Code) as amended by P.D. 1693, P.D. 1920 and P.D. 2018 and penalized under Art. 39 of the same code, committed as follows:

“That on or about the 3rd day of October 1988 in Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating with each other and representing to be legitimate labor recruiters, with intent to defraud and without authority of law or license from the Department of Labor and Employment, did then and there willfully, unlawfully and feloniously, defraud one GERARDO P. ESCANO, the amount of SEVEN THOUSAND ((P7,000.00) PESOS, Philippine Currency, under promise to employ him in the Sultanate of Oman as a bellboy with a salary of \$250 U.S. Dollars a month and to work for his travel papers, all of which have not been realized up to the present time, inspite of many excuses and promises, and despite repeated demands to return said amount, accused failed and refused to do so, to his damage and prejudice in the aforesaid amount.

“That one Bernie de Villa and Arnel V. Ibias were also defrauded of undetermined amounts each by said accused under the same style of recruitment, thus, this illegal recruitment is committed in large scale, hence, now classified as an offense involving economic sabotage.

“CONTRARY TO LAW.” (Original Record, pp. 1-2).

Upon arraignment in Criminal Case No. IR-2577 (Original Record, pp. 27; 28), in Criminal Case No. IR-2582 (Original Record, pp. 13; 14) and in Criminal Case No. IR-2592 (Original Record, p. 7), the accused pleaded not guilty to the crime charged.

A Motion for Consolidation of Cases was filed by the City Prosecutor (Original Record, p. 49) and the two (2) cases (IR-2582 & IR-2592) pending before the other branches (Branches 34 & 36) were consolidated in Branch 35. Thus, the three (3) cases were jointly tried.

Trial ensued.

To prove the guilt of the accused-appellant, the prosecution presented the complainants as witnesses.

ARNEL IBIAS, 27 years old, a government employee and a resident of San Jose, Iriga City, testified that on October 8, 1988, he was recruited by the accused Lucille Sendon in his house at San Jose, Iriga City as a Security

Guard at the Sultanate of Oman with a monthly salary of \$280 U.S. Dollars. As a condition for his employment, he had to pay an amount of P16,500.00 for his plane ticket and other expenses. Thus, in the presence of co-complainants, Bernie de Villa and Gerardo Escano, he gave the accused his first payment in the amount of P5,000.00 in his house on October 10, 1988, then he paid the balance of P11,500.00 on October 18, 1988.

After receiving the same, the accused told them that they were scheduled to leave on October 25, 1988 but their departure was cancelled because their supposed employer will be arriving in Manila. When their supposed employer failed to arrive, he asked the accused to return his money but the latter could not pay him so he reported the matter to the police. At the headquarters, the accused promised to return the money on the 30th of November, 1988 and issued a promissory note signed by her and her sister Marites Sendon. The appellant however, failed to fulfill said promise despite repeated demands. (TSN, Hearing of July 10, 1989, pp. 3-8).

GERARDO ESCANO, 26 years old, a waiter and a resident of San Jose, Iriga City, corroborated the testimony of Arnel Ibias on all material points. In his case, he was required to pay P7,000.00 only as a good friend. He confirmed that at the headquarters, the accused and her sister Marites Sendon signed a promissory note but the promise to return the money to them was not fulfilled. (TSN, Hearing of October 19, 1989, pp. 18-29).

BERNIE DE VILLA, 23 years old, single, jobless and a resident of San Jose, Iriga City, gave exactly the same version as his co-complainants Ibias and Escano. He added that the accused showed him a document which was signed by the supposed employer named Abdullah Mohammad Alhabre requesting two bellboys and one security guard. When his departure for abroad failed to materialize, he demanded the return of his money but to no avail because the accused had no money.

The defense, on the other hand, presented only the accused-appellant, who testified as follows:

LUCILLE SENDON, 24 years old, married, jobless and a resident of San Miguel, Iriga City, testified that on October 5, 1988 while she was in her house talking with co-accused Marites Dimasalang (the person who helped her find work abroad), Gerardo Escano came and talked with Marites Dimasalang about going abroad. On October 8, 1988, she accompanied Marites Dimasalang to the house of Gerardo Escano and the latter, together with Arnel Ibias and Bernie de Villa, talked about their leaving for Oman. As she was a little bit far from their place, she does not know much about their conversation. She did not demand money from the complainants, neither did she receive any amount from them, for it was not her but Marites Dimasalang who convinced them to go abroad.

On instruction of Marites Dimasalang, she accompanied the three complainants to Manila to the medical clinic but she did not inform them of their allegedly scheduled flight to Oman. However, thinking that Marites Dimasalang would return the money to them, she signed a promissory note in their favor but she does not know whether the other signature appearing on said note is that of her sister because she is unfamiliar with the same. (TSN, Hearing of March 20, 1990, pp. 101-109).

On August 8, 1990, the trial court rendered its decision, the decretal portion of which reads as follows:

“WHEREFORE, premises considered, the court finds the accused, Lucille B. Sendon, guilty beyond reasonable doubt of the crime of Violation of Article 38, in relation to Article 39, Chapter III, Title I of the Labor Code of the Philippines as amended, sentenced to pay a fine of P20,000.00 in each case and failure to pay such fine to serve subsidiary imprisonment pursuant to Art. 39, paragraph 2 of the Revised Penal Code, and to return to each of the complaining witnesses the amount she got from each of them, from Bernie de Villa the sum of Fifteen Thousand (P15,000.00) Pesos; from Gerardo Escano the sum of Seven Thousand (P7,000.00) Pesos; and Arnel Ibias the sum of Sixteen Thousand Five Hundred (P16,500.00) Pesos and also to pay the costs in each case.

“SO ORDERED.” (p. 23. Decision, Rollo)

A motion for reconsideration of the decision was filed by the City Prosecution Office on September 11, 1990, claiming that pursuant to P.D. 2018 which amends Articles 38 and 39 of the Labor Code, since the accused has been charged and has in fact been convicted in three separate cases of Illegal Recruitment, then it should be considered as committed in large scale, in which case the penalty should be as provided under Article 39 of the same code, which is, “(t)he penalty of life imprisonment and a fine of One Hundred Thousand (P100,000.00) Pesos shall be imposed” (Original Record, pp. 112-113).

On September 19, 1990, the trial court amended its decision and issued an order, the dispositive portion of which reads:

“WHEREFORE, premises considered, the court finds the accused, Lucille B. Sendon, guilty beyond reasonable doubt of the crime of Violation of Article 38 and Article 39 of the Labor Code of the Philippines, P.D. 2018 as amended, sentenced to suffer life imprisonment and a fine of One Hundred Thousand Pesos (P100,000.00). Accused is also directed to return to each of the complaining witnesses the amount she got from each of them, from Bernie de Villa the sum of Fifteen Thousand (P15,000.00) Pesos; from Gerardo Escano the sum of Seven Thousand (P7,000.00) Pesos and Arnel Ibias the sum of Sixteen Thousand Five Hundred (P16,500.00) Pesos and also to pay the costs.

SO ORDERED.” (Rollo, p. 25).

Hence, this appeal.

The brief for the accused-appellant was filed on July 23, 1991 (Rollo, pp. 38-51) while the brief for the plaintiff-appellee was filed on November 8, 1991 (Rollo, p. 66).

Accused-appellant raises two assignments of error:

I

The trial court erred in giving weight and credence to the contradictory testimonies of the three complaining witnesses.

II

The trial court erred in not acquitting the accused-appellant on the ground of reasonable doubt.

(p. 38, Rollo)

The main issue in this case hinges on the credibility of the witnesses.

The appeal is devoid of merit.

Under the prevailing doctrine, when the issue is one involving the credibility of witnesses, the trial court's findings and conclusions with respect thereto are entitled to great weight and respect on appeal. Subject to certain exceptions which do not obtain in this case, the trial court is in a better position to decide this question having seen and heard the witnesses themselves and observed their deportment and manner of testifying (*People v. Oscar Diquit, et al.*, G.R. No. 96714, January 27, 1992).

Accused-appellant's main objection on the testimonies of the prosecution witnesses is that they are inconsistent and contradictory to one another as to manner as well as to place of payment of the amounts in question.

It must be stressed that the place where complainants Arnel Ibias and Bernie de Villa gave the money is not

material. What is important is that it was accused-appellant Sendon who lured complainants to work abroad and succeeded in getting certain amounts from them allegedly for plane tickets and other expenses. The fact of payment was duly established by the prosecution and in fact admitted by appellant when she executed a promissory note on November 4, 1988.

Inconsistencies in the testimony of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declaration, their veracity or the weight of their testimony. In fact, these inconsistencies, if only in minor details, reinforce rather than weaken their credibility (*People v. Lapnayo Buka, et al.*, G.R. Nos. 68311-13, Jan. 30, 1992).

The alleged conflicting testimonies of the prosecution witnesses refer only to minor details which do not destroy their credibility (*People v. Talla*, 181 SCRA 133, 1990). Discrepancies in minor details are to be expected from an uncoached witness (*People v. Noguerras*, 181 SCRA 19; 1990).

Accused-appellant Sendon's allegations that the promissory note she executed should not be taken against her because she executed the same on the belief that her co-accused, Marites Dimasalang, would return the money herself cannot be given full credit.

It will be observed that accused-appellant never presented evidence that it was Marites Dimasalang, her co-accused, who enticed complainants in entering into the aborted deal. In fact, the existence of the latter was not established. Evidently, Marites Dimasalang was a phoney participant in appellant's illegal acts.

All in all, appellant's guilt has been proved beyond reasonable doubt. It was established that appellant, who is without license to recruit overseas workers, snared and convinced complainants to work abroad. It was also established that appellant received money from the complainants allegedly for their plane tickets and other expenses. Unfortunately, the jobs promised to complainants were never realized, nor was the money she received from them, returned.

Considering these findings, it is clear that the appellant is **GUILTY BEYOND REASONABLE DOUBT OF ILLEGAL RECRUITMENT IN LARGE SCALE** as defined in Section 38 of the Labor Code, as amended by Presidential Decrees Numbers 1920 and 2018.

PREMISES CONSIDERED the appealed decision is hereby **AFFIRMED**.

SO ORDERED.

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

Nocon, J., on leave.

* Penned by Presiding Judge Esteban R. Abonal.

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