

## FIRST DIVISION

[G.R. No. 118815. August 18, 1997]

**PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. ANITA MELGAR-MERCADER Y TONGCO, *accused-appellant*.****DECISION****BELLOSILLO, J.:**

This is an appeal from the decision of the RTC - Br. 219, Quezon City, in Crim. Case No. 94-56815, convicting accused-appellant Anita Melgar-Mercader y Tongco of Illegal Recruitment in Large Scale under pertinent provisions of the Labor Code, and sentencing her to life imprisonment.<sup>[1]</sup>

The Information charged that between January 1993 to April 1994 the accused Anita Melgar-Mercader y Tongco, for a fee but without any authority of law, feloniously recruited and promised employment and/or job placement abroad to (a) Florida Mendoza-Rampas, (b) Lilia Manlolo-Macaraeg, (c) Samuel Domingo, (d) Fernando Alijano, (e) Ferdinand Alijano, (f) Alfredo Dapitan, (g) Guy Forte, and (h) Ofelia Petrache-Germono without first obtaining the required license and/or authority from the Department of Labor and Employment (DOLE).

Of the eight (8) complaining witnesses, three (3) testified for the prosecution, namely, Lilia Manlolo, Adela Domingo, Guy Forte and Ofelia Petrache-Hermono. Adela Domingo, wife of complaining witness Samuel Domingo, also testified.

Lilia Manlolo narrated that when she heard that the accused was sending people abroad for employment, she and her husband went to the house of the accused in the first week of January 1994 in Escopa, Quezon City. When they met appellant assured them that she could send them for employment abroad. In fact, she said that she was not like other recruiters who were merely victimizing prospective applicants.

The accused informed Lilia that the processing of the papers for employment in Malaysia would take some 3 to 4 weeks only and that the placement fee was P20,000.00 which was equivalent to her salary for one (1) month. Lilia said that she was willing to give an initial amount of P5,000.00. Then accused asked her to have a medical checkup, which she did on 11 January 1994 at Dr. Bartolomes clinic which yielded a favorable result.<sup>[2]</sup> On 18 January 1994, Lilia handed the accused another P5,000.00 at her house as evidenced by a receipt.<sup>[3]</sup> Together with the amount Lilia also gave her passport, NBI clearance and medical certificate to the accused who told her to just wait for a telegram. But no telegram came and, despite repeated follow-ups with the accused, Lilia was never able to leave for abroad.

Adela Domingo, wife of Samuel Domingo, also took the witness stand. She said that the accused was a neighbor who went to their house and informed her and her husband that she (the accused) had a visa ready for Samuel should Adela allow him to leave for abroad. Although skeptical at first, Adela became convinced when accused gave the name of another neighbor as one of those she had deployed earlier. Adela then gave the accused P9,000.00, although the latter was asking for P14,000.00, and 3-1/2 sacks of rice worth P2,000.00 or a total payment of P11,000.00, for which the accused gave her a receipt.<sup>[4]</sup> But Samuel Domingo was never able to leave and the accused after March 1994 could no longer be found. This prompted the Domingos

to file a complaint at Police Station No. 8 where Adela was asked to verify with the Philippine Overseas Employment Administration (POEA) the accused's license to recruit. Upon her request, the POEA issued a certification dated 12 April 1994 attesting to the fact that the accused was neither licensed nor authorized by that office to recruit workers for overseas employment.<sup>[5]</sup> POEA then advised the Domingos to have the accused arrested.

The third complainant to take the witness stand was Guy Forte. She testified that sometime in July 1993 she was introduced to the accused who convinced her that for a fee she could work in Taiwan. Because the accused promised her that she could leave in April, Guy gave the accused ₱5,000.00 in January and another ₱5,000.00 the following month.<sup>[6]</sup> But by April she still had not left because the accused alleged that she lost the passport of Guy.

Ofelia Petrache-Germono also testified. She recounted that on 14 December 1993 she met the accused when she accompanied a friend who was also applying for a job abroad. She said that she became the replacement for another applicant who reportedly got sick. The accused asked her to prepare ₱1,000.00 for medical expenses. She even accompanied her to Dr. Bartolomes clinic where she underwent medical examination for which she paid ₱900.00 for doctor's fees. The accused then informed Ofelia that she was physically fit and her papers could be processed for a fee of ₱7,000.00 of which she made an initial payment of ₱3,000.00. Later, the accused borrowed ₱1,000.00 and told Ofelia to prepare all the money so that she could catch up with the rest by Christmas time.

On 24 February 1994, after pawning her ring at the Capitol Pawnshop, Ofelia gave the accused ₱2,000.00.<sup>[7]</sup> In other words, Ofelia gave her the total amount of ₱6,000.00.<sup>[8]</sup> The accused also asked her to attend a seminar as she was leaving soon. However, she was not able to attend. Neither was she able to go abroad. Finally she went to the JB Agency to look for the accused who allegedly worked there, but nobody knew her there; she also went to the residence of the accused but she did not find her there either. Later, she learned that the accused was already detained at Police Station No. 8.

On 5 October 1994 the trial court rendered its decision -

x x x finding the accused guilty beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale defined and penalized under Article 13 (b), 38 (b), and 39 of the Labor Code, the Court hereby sentences her to suffer the penalty of life imprisonment, to indemnify complainant Lilia Manlolo in the amount of ₱5,000.00; complainant Adela Domingo in the amount of ₱11,000.00; complainant Guy Forte in the amount of ₱10,000.00; and complainant Ofelia Petrache in the amount of ₱6,000.00, and to pay the costs.<sup>[9]</sup>

Appellant assails the above decision and contends that the court *a quo* erred in finding her guilty of Illegal Recruitment in Large Scale, when the prosecution failed to prove her guilt beyond reasonable doubt.<sup>[10]</sup>

Appellant contends that her conviction has no sufficient legal and factual basis as she does not even know the complaining witnesses, has not entered into any transaction with them nor promised them job placements abroad.

Appellant's denial is devoid of merit. As against the positive testimonies of the four (4) complaining witnesses that they were lured by appellant to part with their hard-earned money on the promise of placement for good-paying jobs abroad, the defense of denial loses ground; it is a self-serving negative evidence that cannot be given greater weight than the declaration of credible witnesses.<sup>[11]</sup>

An examination of the testimonies of the four (4) complaining witnesses reveals that appellant indeed knew all of them. It is hard to imagine how four (4) persons, not knowing one

another and residing in different areas far from each other, could concoct such a detailed account of their respective unpleasant experiences with the appellant. Verily, it is highly improbable if not downright implausible. Besides, no ill motive has been attributed to the four (4) complainants which could have impelled them to impute to appellant a crime so grave as illegal recruitment in large scale.

Appellant's denial of her signatures appearing on the receipts she issued to the four (4) complainants representing the amounts for the processing of their papers cannot be sustained. When cross-examined by the prosecutor on her signatures, appellant could not point to any difference between her signatures on the records and her signatures on the receipts she gave the complaining witnesses. Appellant testified thus -

Q: Now, these Exhibits A, C, E and I were shown to you and you denied that the signatures which read Anita Melgar which appear that the signatures are yours, is it not?

A: I did not sign them.

Q: Will you agree with me that you affixed your signature in this this case which appear on the record x x x ?

A: Yes ma'am, I have my signatures affixed in this record.

Q: Your signatures appeared in the minutes dated May 3, 1994 and also in the minutes dated May 24, 1994 as well as to (sic) the other minutes attached to the record, you will agree that these are your signatures?

A: Yes ma'am, they are my signatures.

Q: Now, will you go over the signatures on the exhibits which I mentioned earlier and compare with your signatures in the minutes attached to the record of this case? Will you see if there is any difference among the signatures on exhibits presented by the prosecution and the signatures appearing on the records of this case?

A: There is a difference.

Q: What is that difference that you noticed?

A: Still I did not sign this ma'am in the exhibits (underscoring supplied).[\[12\]](#)

Denial is the only defense that appellant can come up with. But, as against the positive testimonies of the four (4) complainants that the receipts were signed by appellant in their presence, the denial cannot save her from her quagmire.

Consequently, there is no doubt as to appellant's guilt. All the essential elements of the crime of Illegal Recruitment in Large Scale have been established beyond reasonable doubt: (a) The accused engaged in the recruitment and placement of workers as defined in Art. 13 (b) of the Labor Code; (b) The accused did not comply with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of license or an authority to recruit and deploy workers, either locally or overseas; and, (c) The accused committed the same against three (3) or more persons, individually or as a group.[\[13\]](#)

Illegal recruitment carries with it the penalty of life imprisonment and a fine which varies by degrees in accordance with the enumeration in Art. 39 of the Labor Code. In the instant case, since appellant was convicted of illegally recruiting at least four (4) persons, her crime should be classified as having been committed in large scale.[\[14\]](#) Thus it is considered as involving economic sabotage that carries with it a fine of ₱100,000.00 which the trial court however failed to impose on appellant. In addition, appellant must indemnify complainants their processing fees or the unrefunded portions thereof.[\[15\]](#)

**WHEREFORE**, the judgment appealed from finding accused-appellant ANITA MELGAR-MERCADER y TONGCO guilty of Illegal Recruitment in Large Scale defined and penalized

under Arts. 13 (b), 38 (b), and 39 of the Labor Code and sentencing her to life imprisonment and to indemnify Lilia Manlolo ₱5,000.00, Adela Domingo ₱11,000.00, Guy Forte ₱10,000.00 and Ofelia Petrache-Germono ₱6,000.00, and to pay the costs, is **AFFIRMED**.

**SO ORDERED.**

*Padilla (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.*

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[1] Decision penned by Judge Jose Catral Mendoza, RTC-Br. 219, Quezon City.

[2] Exh. B, Records, p. 76.

[3] Exhs. A, and A-1; *id.*

[4] Exh. C, *id.*, p. 77.

[5] Exh. D, *id.*, p. 78.

[6] Exh. E, *id.*, p. 79.

[7] Exh. H, *id.*, p. 81.

[8] Exh. I, *id.*, p. 82.

[9] See Note 1.

[10] Appellants Brief, p. 1; *Rollo*, p. 42.

[11] *People v. Carizo*, G.R. No. 96510, 6 July 1994, 233 SCRA 687.

[12] TSN, 6 September 1994, pp. 18-20.

[13] *People v. Bautista*, G.R. No. 113547, 9 February 1995, 241 SCRA 216, 220.

[14] Art. 39 (b), Labor Code.

[15] *People v. Cabacang*, G.R. No. 113917, 17 July 1995, 246 SCRA 530.