

## SYLLABI/SYNOPSIS

### THIRD DIVISION

[G.R. No. 133563. March 4, 1999]

BRIDGET BONENG Y BAGAWILI, *petitioner*, vs. PEOPLE OF THE PHILIPPINES, *respondent*.

### DECISION

PURISIMA, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, seeking to set aside the Decision<sup>i</sup>[1] of the Court of Appeals<sup>ii</sup>[2] dated March 31, 1998 in CA G.R. CR No. 17133, affirming in its entirety the judgment of conviction handed down by the Regional Trial Court, Branch 6, Baguio City, finding the petitioner herein guilty beyond reasonable of *Illegal Recruitment* and sentencing her to a prison term of four (4) years, as minimum, to eight (8) years, as maximum, and to pay the costs.

Petitioner Bridget Boneng y Bagawili was indicated for a violation of Article 38 (a), in relation to Articles 13 (b), 16, 34 and 39 (b) of Presidential Decree No. 442, as amended by Presidential Decree No. 1920, in Criminal Case No. 12104 before the Regional Trial Court, Branch 6, Baguio City, under an Information, alleging:

*That on or about the 24th day of September 1993, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then private person, did then and there willfully, unlawfully and feloniously engage in the following illegal recruitment activities to wit: by promising, for profit to complainant MA. TERESA GARCIA employment abroad under false pretenses and fraudulent acts, without any license or authority from the Philippine Overseas Employment Administration, Department of Labor and Employment, Manila, in violation of the aforecited provision of law.*

On December 9, 1993, with the assistance of counsel, she was arraigned thereunder and pleaded NOT GUILTY to the crime charged. Trial ensued, and after presenting the witnesses, SPO3 Jesus Nevado, SPO3 Romeo Dulay and Maria Teresa Garcia, and documentary evidence consisting of Exhibits A to G, the prosecution made a formal offer of evidence and rested its case.

On April 7, 1994, after the prosecution had rested, the accused (*now petitioner*) presented a demurrer to evidence and manifested that she was waiving the right to adduce evidence for the defense, and was submitting the case for decision on the basis of the evidence on record.

On May 5, 1994, the trial court came out with its Decision, finding petitioner guilty of the offense charged and sentencing her thus:

*Wherefore, the Court Finds (sic), accused Bridget Boneng guilty beyond reasonable doubt for the offense of Violation of Article 38(a) in relation to Article 13(b), 16, 34 and 39(c) of PD 442 as amended by PD 1920 (Illegal Recruitment) and sentences her, applying the indeterminate sentence law, to an imprisonment ranging from FOUR (4) YEARS as Minimum to EIGHT (8) YEARS as Maximum and to pay the costs.*

Not satisfied with the verdict below, petitioner appealed to the Court of Appeals, contending that the testimony of the complainant, Ma. Teresa Garcia, is perjured, hearsay, uncorroborated and tainted with material inconsistencies and she (*petitioner*) should have been acquitted because the documentary evidence taken from her office was seized in violation of her constitutional right against illegal search and seizure.

On March 31, 1998, the Court of Appeals decided as follows:

*In sum appellant was correctly found to be liable for violation of Art. 38(a) in relation to Articles 13(b), 16, 34 and 39 (c) of P.D. 442, as amended.*

*WHEREFORE, finding the conviction of appellant in conformity with the law and evidence, the same is hereby AFFIRMED in toto.*

*SO ORDERED.*

Without resorting first to a motion for reconsideration, the petitioner came to this Court via the present petition, placing reliance practically on the same grounds she invoked and relied upon before the Court of Appeals.

Did the Court of Appeals err in affirming the judgment convicting petitioner for illegal recruitment? This is the crucial issue at bar.

Petitioner theorizes that the Court of Appeals erred in not considering the non-existence and non-admissibility of the documents upon which the trial court based her conviction. According to her, the prosecution should have established that other than Ma. Teresa Garcia, there were other applicants for overseas employment in the office of petitioner where she was allegedly conducting her recruitment business and activities. In the absence of sworn statements from the other applicants, petitioner maintains that the motive of the prosecution witnesses, whose testimonies she branded as inconsistent with their affidavits, in carrying out the entrapment, was to fleece money from her.

Petitioner, in effect, is asking this Court to review the factual findings by the trial court and the Court of Appeals, to examine subject documents, and evaluate and assign the probative value of the evidence, the same evidence looked into below, and determine once again the credibility of the witnesses.

To begin with, this Court is not a trier of facts. It is not its function to examine and determine the weight of the evidence supporting the assailed decision. In *Philippine Airlines, Inc. vs. Court of Appeals*,<sup>iii[3]</sup> the Court held that factual findings of the Court of Appeals which are supported

by substantial evidence are binding, final and conclusive upon the Supreme Court. So also, well-established is the rule that factual findings of the Court of Appeals are conclusive on the parties and carry even more weight when the said court affirms the factual findings of the trial court.<sup>iv[4]</sup> Moreover, well entrenched is the prevailing jurisprudence that only errors of law and not of facts are reviewable by this Court in a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court, which applies with greater force to the Petition under consideration because the factual findings by the Court of Appeals are in full agreement with what the trial court found.

It bears stressing that by opting not to present any controverting evidence during the trial, petitioner waived her right to come forward with evidence for the defense and foreclosed her right to interpose any objection to the prosecutions evidence upon appeal x x x.<sup>v[5]</sup>

Similarly untenable is petitioners stance that she is not an illegal recruiter, arguing that the documents introduced to substantiate her recruitment activities were neither identified nor marked by the prosecution.

In *People vs. Benemerito*, 264 SCRA 677, 691, the Court enumerated the elements of illegal recruitment to be as follows:

*(1) the person charged with the crime must have undertaken recruitment activities (or any of the activities enumerated in Article 34 of the Labor Code, as amended); and*

*(2) the said person does not have a license or authority to do so.*

In affirming the findings arrived at by the court *a quo*, the Court of Appeals ratiocinated:

*The prosecutions evidence shows that appellant is a non-licensee or non-holder of authority as required by law. Proof of this is a certification (Exh. C) dated 18 August 1993 issued by the POEA-REU, Baguio City, which reads:*

#### ***CERTIFICATION***

***This is to certify that the name BRIDGETTE BUNEG (sic) per existing and available records from this Office is not licensed nor authorized to recruit workers for overseas employment in the City of Baguio or any part of the region.***

When the trial prosecutor was about to present the signatory of the above document, the defense readily admitted its authenticity (*TSN, 03 March 1994, p. 17*). Appellant expressly waived her right to rebut this allegation and in effect judicially admitted she was not a licensee or holder of authority. Consequently, such evidence can be validly taken against her.

In this context, a non-licensee or non-holder of authority has been defined in *People vs. Diaz*, (*supra*)<sup>vi[6]</sup> as:

*x x x any person, corporation or entity which has not been issued a valid license or authority to engage in recruitment and placement by the Secretary of Labor or whose license or authority has been suspended, revoked or cancelled by the POEA or the Secretary x x x .*

Anent the second element, Article 13 (b) of the Labor Code, as amended, states:

*Art. 13 (b) of the Labor Code defines recruitment and placement as any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contact services, promising or advertising abroad, whether for profit or not; provided that any person or entity which, in any manner, offers or promises for fee employment to two or more persons shall be deemed engaged in recruitment and placement.*

The evidence shows that appellant promised Garcia employment abroad for fee. Garcia testified:

Q: After the secretary has introduced Mrs. Boneng to you to be her boss, what did you do?

A: I asked from Bridget Boneng the rules and what country can I apply, sir.

Q: Did Mrs. Boneng answer you?

A: Yes, sir, she told me in Hongkong.

x x x

Q: ... what things did you talk about with Mrs. Boneng?

A: I asked Mrs. Bridget Boneng how much will I spend in applying for Hongkong and she told me that it was around ₱30,000.00 and she told me also to submit my birth certificate and for the passport, she will (sic) take charge of it but I will (sic) add a little amount for the processing of my papers.

x x x

Q: What did Mrs. Boneng tell you when you told her that you have (sic) ₱2,000.00 and if possible, she would work first for your passport and your medical examination?

A: Bridget Boneng told me to at least solicit the amount of ₱10,000.00 as down payment because there is an on going interview in Manila the following Sunday.

Q: What happen after that?

A: She accepted the amount of ₱2,000.00 and I told her that I will (sic) add more.

x x x

Q: Was there a receipt given by Bridget Boneng to you when you delivered the ₱2,000.00?

A: He (sic) does not issue a receipt, she told me that.

Q: To whom did you personally deliver the ₱2,000.00?

A: To Mrs. Boneng

(TSN., 24 February 1994, pp. 18-21).

From the aforecited testimony, it is decisively clear that aside from the promise to deploy complainant Ma. Teresa Garcia in Hongkong, the petitioner accepted a part of the ₱30,000.00 fee she was collecting for her recruitment work.

Neither do we discern any tenability in petitioners contention that the prosecution should have secured sworn statements from the other applicants to prove her (*petitioners*) recruitment activities. In ***People vs. Pabalan***, 262 SCRA 574, it was succinctly ruled that the testimony of a single prosecution witness, where credible and positive, is sufficient to prove beyond reasonable doubt the guilt of the accused. There is no law which requires that the testimony of a single witness has to be corroborated, except where expressly mandated in determining the value and credibility of evidence. Witnesses are to be weighed, not numbered. In ***People vs. Panis***, 142 SCRA 665, the Court also held that any of the acts mentioned in the basic rule in Article 13 (b) will constitute recruitment and placement even if only one prospective worker is involved.<sup>vii[7]</sup>

Petitioner complains that the Court of Appeals ignored an avalanche of material inconsistencies<sup>viii[8]</sup> tainting the testimony of complainant Ma. Teresa Garcia. Records disclose, however, that the said court did pass upon such aspect of the case but adjudged the same trivial and minor inconsistencies. Ratiocinated the Court of Appeals:

*xxx In this connection appellant has referred to inconsistencies as to the narration of events that transpired on 24 September 1994. But these are trivial and minor points. In ***People vs. Trilles***, 254 SCRA 633, the Supreme Court held:*

*Trivial inconsequential inconsistencies in the testimony of witnesses do not merit consideration and cannot destroy the credibility of said witnesses in the face of the positive and categorical identification of the accused as the perpetrator(s) of the crime."*<sup>ix[9]</sup>

Petitioner also questions the legality and validity of her arrest sans a warrant. On this score, the Court of Appeals erred not in affirming the ruling by the trial court of origin that the present case falls under Section 5 (b), Rule 113 of the Revised Rules of Court, to wit:

***Sec. 5 Arrest Without Warrant; when lawful*** - A peace officer or a private person may, without a warrant, arrest a person:

x

x

x

*(b) when an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it;*

The Court of Appeals rationalized:

*"And in the case at bar, it can be said that when Garcia filled up the application forms for work aboard and paid ₱2,000.00 to Boneng as partial payment or advance payment of the placement fees required and was promised she could work in Hongkong by Boneng, the latter was actually engaged in illegal recruitment as she had no license to recruit admittedly.*

*Hence, at that precise time Boneng was already committing an offense of illegal recruitment in the presence of Garcia. Garcia could have very well arrested her on the spot but she did not as she explained civilian agents are cautioned not to effect arrest by the CIS authorities.*

*And when Garcia left and went downstairs to tell her CIS team that she already gave the ₱2,000.00 marked money to Boneng after posing as an applicant for work abroad and describing Boneng as a short fat lady wearing pants and white T-shirt and forthwith Nevado and Dulay<sup>x[10]</sup> went up to the second floor to apprehend Boneng and recover the marked money of ₱2,000.00 and the documents pertaining to the recruitment activity of Boneng, then it can be said Boneng has just committed an offense and the effects thereof are still visible in her office, the marked money and documents of recruitment being there, when Nevado and Dulay of the CIS, both peace officers, went up to effect her arrest.*

x

x

x

*The arrest therefore was legal as an exception under warrantless arrest under Section 5(b) of Rule 113 of the Rules of Court ...*

All things studiously considered and the probative weight of the evidence on record taken into account, the irresistible conclusion is that petitioner Bridget Boneng is guilty beyond reasonable doubt of the crime charged.

**WHEREFORE**, for lack of merit, the Petition is hereby DENIED, and the Decision of the Court of Appeals in CA G.R. CR No. 17133 AFFIRMED *in toto*. No pronouncement as to costs.

SO ORDERED.

Romero, (Chairman), and Gonzaga-Reyes, JJ., concur.

Vitug, J., abroad on official business.

Panganiban, J., on leave.

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i[1] Annex A, Petition, *Rollo*, pp. 24-36.

ii[2] First Division. Composed of Justices Buenaventura J. Guerrero, *Ponente*; Arturo B. Buena, Chairman; ad Portia Alio-Hormachuelos, Member.

iii[3] 275 SCRA 621 [1997].

iv[4] Fortune Motors (Phils.) Corporation vs. Court of Appeals, 267 SCRA 653 [1997].

v[5] People vs. Galimba, 253 SCRA 722.

vi[6] 259 SCRA 441.

vii[7] People vs. Panis, 142 SCRA 667, 667. [1986].

viii[8] Petition, p. 7; *Rollo*, p. 14.

ix[9] CA Decision, p. 9; *Rollo*, p. 32.

x[10] CIS Agents.