

SYLLABI/SYNOPSIS

THIRD DIVISION

[G.R. No. 127159. May 5, 1999]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. REMEDIOS ENRIQUEZ y AGUILAR, *accused-appellant*.

DECISION

ROMERO, J.:

Before us is an appeal by Remedios Enriquez from the Decision^{i[1]} dated October 25, 1996 in Criminal Case No. 94-5890 rendered by the Regional Trial Court, Branch 117, Pasay City, convicting her of illegal recruitment in large scale under Article 38 (b) of the Labor Code of the Philippines, as amended. The decretal portion of the decision reads:

WHEREFORE, in view of the foregoing, the Court finds the accused Remedios Enriquez y Aguilar GUILTY beyond reasonable doubt for the crime of illegal recruitment defined and penalized under Art. 38 (b) of the Labor Code of the Philippines (PD 442, as amended) and sentences her to a penalty of life imprisonment and to pay a fine of P100,000.00; to indemnify Alfredo Evangelista the amount of P3,370; Regina Evangelista the amount of P5,000; Josefino Mendoza the amount of P3,370; Redentor Teves the amount of P7,740; Sheila Lahay Lahay the amount of P5,000; Felix Azul the amount of P3,370 and Lorna Pasagui, the amount of P3,370, and to pay the costs.

SO ORDERED.

The accused-appellant was charged with the crime of illegal recruitment in large scale allegedly committed as follows:

That on or about the period comprised from December 1993 up to May 1994, in Pasay, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Remedios Enriquez y Aguilar, John Doe and Jane Doe, conspiring, confederating and mutually helping one another, and by falsely representing themselves to have the capacity to contract, enlist, employ and recruit workers for employment in Taiwan, did then and there wilfully, unlawfully and feloniously for a fee, recruit Marcos Cabuyao y Barot, Pedro Cabuyao y Barot, Remegio de leon, Norman delos Reyes y Kuirulf, Lorna Pasagi y Versosa, Herminio Aquino y Kal, Jose Alcovendas y delos Santos, Emmanuel delos Santos y dela Cruz, Romeo Gahol y Makatangay, Leonel Balagtas, Rolando Vitug, Alexander Calderon, Vilma Oasay y Cajumban, Joey Mendoza, Ester Sayson, Pepito Francisco, Crisencia Quinia, Sonny Magbanua, Rogelio Obando y Caser, Jona delos Reyes y Kieruff, Shiela Lahay-Lahay y delos Reyes, Efren Reyes y Mangulabnan, Leonila Guiruela, Leonora Cusi, Felix Azul, Jr., Rosario Rusanto, Nikolas Nalla y Naobre, Regina Evangelista y dela Pea, Carlos Solano, Jr. y Sunglao, Feliciano

Ilano y Virata, Ramon Beltran y Ambran, Jose Evangelista y Landra, Alfredo Evangelista y Isorina, Nestor Ruiz y Perona, Jonald Madayag y Pedro, Manuel Talimongan y de Guzman, Antonio Morales y Corpuz, Francisco Sarmiento y Limpin, Danilo Cablay y Servano, Victorina G. Domino, Liezel G. Domino and Alexander G. Domino without first securing the required license or authority from the Philippine Overseas Employment Administration (POEA).

Contrary to law.ⁱⁱ[2]

On July 4, 1994, accused-appellant was duly arraigned under the said Information. Then, on September 8, 1994, the prosecution filed an Amended Information impleading accused-appellants common law husband, Reynaldo Enriquez, and daughter, Rowena Enriquez, as co-accused. However, it appears from the records that Remedios was not properly arraigned under the Amended Information. Thus, the case was decided on the basis of the original Information.

As can be gleaned from the Information, accused Remedios Enriquez promised employment in Taiwan to at least forty two people, six of whom appeared in court to testify against her. From the testimony of these complaining witnesses, the facts leading to her conviction by the lower court are as follows:

Complainants Alfredo Evangelista, Regina Evangelista, Josefino Mendoza, Sheila Lahay Lahay, Felix Azul, and Lorna Pasagui on different dates, went to the residence of Remedios Enriquez at 231 Libertad St., Pasay City after learning that she was recruiting workers for Taiwan. They were each asked to pay processing fees ranging from P3,370 to P5,000 for which no receipts were issued and to submit certain documents to facilitate their travel and subsequent deployment abroad. However, despite having complied with these requirements and after several follow-ups, they still were not able to leave for Taiwan. Having learned that Remedios was already in jail and under investigation for her recruitment activities, they too lodged a complaint against her for illegal recruitment.

During their examination in court, the complaining witnesses corroborated each others testimonies to the effect that it was, in fact, Remedios Enriquez who promised them employment in Taiwan and that it was she who dealt with them each time they went to her house in Libertad Street to follow up on their application for overseas employment. According to the witnesses, Remedios was the one who told them about the job prospects in Taiwan and the requirements for their deployment. She was also the one who received the placement fees paid by the complainants.

The first prosecution witness, Alfredo Evangelista, testified that he learned from a friend that accused-appellant was recruiting workers for Taiwan so he went to the latters residence in Libertad and was told by Remedios to pay the processing fee of P3,370. After paying said amount for which no receipt was issued and submitting the necessary documents, he kept on following up on his application only to be met by promises from Remedios that he would be deployed soon. Her promises proved to be empty, however, as he later discovered that Remedios was already in jail.ⁱⁱⁱ[3]

Complainant Regina Evangelista, for her part, testified that she came to know accused-appellant through her brother-in-law and co-complainant, Alfredo Evangelista. After meeting Remedios at the latter's Libertad residence, Regina was told by the accused-appellant to complete the necessary papers and to pay a processing fee of P5,000. In Regina's case, she was given a receipt for the amount she paid. Remedios likewise told her that Regina was scheduled to leave for abroad on June 22, 1994. However, on June 15, 1994, Regina found out that accused-appellant was already detained by the Pasay City Police for her recruitment activities.^{iv[4]}

Josefino Mendoza was similarly lured by Remedios to part with his hard-earned money in exchange for the promise of a good job in Taiwan. Josefino testified that he went to accused-appellant's house in Libertad to inquire about the application requirements for overseas employment and it was Remedios herself who informed him about the necessary papers and the P3,370 processing fee. During the trial, Josefino presented a receipt signed by Remedios which reads: Received from Josefino Mendoza and Redentor Teves the amount of P6,740.^{v[5]} Redentor Teves was the son of Josefino's compadre and also a co-applicant. Josefino testified that he was also required to attend a seminar at Aurelio Hotel together with other applicants. He also received P1,500 as salary advances from the accused-appellant. According to Josefino, Remedios promised him that he would be deployed on the first week of April 1994 but this did not materialize as Remedios told him that there were some problems regarding his papers. She again promised that he would be deployed in late May of the same year but this too was unrealized as his departure was repeatedly re-scheduled for some reason or another until he decided to file a complaint against Remedios for illegal recruitment and estafa.

Sheila Lahay Lahay, the best friend of Rowena Evangelista, accused-appellant's daughter, testified that Rowena talked her into applying for work as a company nurse abroad and introduced her to her mother, Remedios, who told Sheila about the documents to be submitted and the P5,000 processing fee. Having completed her papers and paying the amount required, she was not given any receipt. Like the other witnesses before her, Sheila too was never deployed abroad but of the P5,000 she paid as processing fee, P3,000 was returned to her supposedly as advance salary.^{vi[6]}

Prosecution witness Felix Azul learned about Remedios through his neighbor, Leonor Cusi, who was also being recruited by accused-appellant. Felix applied for the position of security guard and submitted the necessary papers. He likewise paid P3,370 as processing fee for which he was not given a receipt. He was also required to attend the seminar at Aurelio Hotel during which, he said, Reynaldo Enriquez introduced Remedios Enriquez to the participants as the overall general manager.^{vii[7]}

Like complainant Sheila Lahay Lahay, Lorna Pasagui was recruited by the accused-appellant who was introduced to her by Rowena Enriquez. She was promised a job as factory worker in Taiwan on condition that she submit certain papers and pay the P3,370 processing fee. Despite having met these requirements, however, she was never deployed abroad.^{viii[8]}

From the records, it appears that Remedios was not alone in carrying out her nefarious recruitment activities. Her common-law husband Reynaldo Enriquez and daughter Rowena were

likewise actively involved in the business, turning it into a kind of family affair. However, it was only Remedios who stood trial as Reynaldo and Rowena remained at large.

To show that the accused-appellant had no authority whatsoever to recruit workers for jobs abroad, the prosecution presented a certification^{ix}[9] from the Chief of Licensing of the Philippine Overseas Employment Administration showing that Remedios Enriquez is not licensed to engage in the recruitment of workers for overseas employment.^x[10]

In her defense, Remedios claimed that it was her common-law husband Reynaldo who was engaged in the business and that she only acted as his secretary when she dealt with the complainants. She testified that about a year before she was arrested and charged for illegal recruitment, her estranged common-law husband Reynaldo sought a reconciliation after they had been living apart for seventeen years. Having agreed to take him back, she allowed him to establish his recruitment office at her residence in Libertad which was owned by her parents.^{xi}[11]

Remedios claimed that she herself and her children applied for employment in Taiwan through Reynaldo. As to her participation in Reynaldos recruitment activities, she maintained that she merely helped him in the office for three months while he was still looking for a secretary. Part of her duties then was to collect the documents submitted by the applicants and receive the money they paid as placement fees.

Remedios likewise presented photocopies of letters addressed to her common-law husband Reynaldo written on stationery with the letterhead of Jet Hotel and Taiwan Restaurant Inc.^{xii}[12] and J Manila Brunei Personnel Management Services International^{xiii}[13] to prove that it was, in fact, Reynaldo who was engaged in recruitment activities.^{xiv}[14]

To bolster Remedioss version of the facts, another defense witness, Eduardo Ferrer, was presented to prove that accused-appellant was herself an applicant for overseas employment and that she had nothing to do with the illegal recruitment activities of her common-law husband.

As earlier stated, the trial court did not give credence to the evidence presented by the defense and found Remedios guilty as charged. Hence, this appeal.

We affirm the conviction.

Article 13, par. (b) of the Labor Code defines recruitment and placement as

xxx any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

Under Article 38, par. (a), of the same Code, any recruitment activity, including the prohibited practices enumerated under Article 34 of the Labor Code shall be deemed illegal and punishable

if undertaken by non-licensees or non-holders of authority. If illegal recruitment is committed in large scale, that is, against three or more persons individually or as a group, it is considered an offense involving economic sabotage and carries a higher penalty. The same rule applies if illegal recruitment is committed by a syndicate.

The essential elements of the crime of illegal recruitment in large scale can thus be summarized as follows: (1) the accused engages in acts of recruitment and placement of workers, as defined under Article 13 (b), or in any prohibited activities under Article 34 of the Labor Code; (2) the accused has not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of a license or an authority to recruit and deploy workers, either locally or overseas; and (3) the accused commits the same unlawful acts against three or more persons, individually or as a group.^{xv[15]}

The first and third elements of the offense were sufficiently proven by the prosecution. That the accused-appellant actually engaged in recruitment activities was clearly established through the testimonies of the complaining witnesses who corroborated each others accounts in describing accused-appellants *modus operandi*. These witnesses were united in pointing to Remedios as the one who inveigled them into handing over their hard-earned money in exchange for work abroad.

As to the second element of the offense charged, the certification issued by the Chief of Licensing of the Philippine Overseas Employment Administration unequivocally shows that accused-appellant does not have the requisite license or authority to engage in the recruitment and placement of workers abroad. Not once did the accused-appellant refute this fact.

In her defense, accused-appellants version was that it was her common-law husband, Reynaldo, who was, in fact, engaged in recruitment activities and that she was only acting as his personal secretary when she transacted with the complainants herein. In an attempt to elicit the sympathy of the court, she further claimed that she too was a victim in this case, as she herself was promised employment abroad by Reynaldo.

The theory of the defense unduly strains the credulity of this Court. For one, the testimonies of the complaining witnesses do not bear out accused-appellants claim that she merely performed administrative or clerical tasks for her common-law husband. On the contrary, the complainants positively identified Remedios as the one who directly dealt with them from the time they inquired about the job prospects abroad until they complied with the requirements and followed up their applications. It was she who assured them of their deployment abroad and received the placement fees they paid. The undisputable fact, therefore, was that she led herein complainants to believe that she could send them abroad to work. She cannot now feign innocence by claiming that she was merely acting in behalf of her husband. More important is that there is no showing that any of the complainants had ill motives against the accused other than to bring her to the bar of justice for her deception.

Besides, as the Court held in another illegal recruitment case, with the accused-appellants failure to present the person who was allegedly responsible for the recruitment of the complainants, she

risked the adverse inference and legal presumption that evidence suppressed would be adverse if produced.^{xvi}[16]

Furthermore, worth reiterating is the rule that illegal recruitment in large scale is *malum prohibitum*, not *malum in se*, and the fact alone that a person violated the law warrants her conviction.^{xvii}[17] Thus, any claim of lack of criminal intent, as the herein accused attempts to raise in her defense, is unavailing. She cannot escape liability by merely passing the blame to her common-law husband. As the records show, accused-appellant was, in fact, engaged in recruitment without the requisite license or authority. This alone is sufficient to support her conviction, and it is now immaterial whether or not she had intended to defraud the complainants.

WHEREFORE, in view of the foregoing, the judgment appealed from finding accused-appellant REMEDIOS ENRIQUEZ y AGUILAR guilty beyond reasonable doubt of Illegal Recruitment in Large Scale is AFFIRMED. She is sentenced to suffer the penalt of life imprisonment and to pay a fine of P100,000. However, the amounts awarded as indemnity to the complaining witnesses are MODIFIED as follows: (a) Alfredo Evangelista, P3,370; (b) Regina Evangelista, P5,000; (c) Josefino Mendoza, P1,870; (d) Sheila Lahay Lahay, P2,000 (e) Felix Azul, P3,370; (f) Lorna Pasagui, P3,370. Costs against accused-appellant.

SO ORDERED.

Vitug, Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

ⁱ[1] *Rollo*, pp. 28-35.

ⁱⁱ[2] *Ibid.*, p. 11.

ⁱⁱⁱ[3] TSN, August 1, 1994, pp. 2-10.

^{iv}[4] TSN, August 29, 1994, pp. 4-11.

^v[5] Exhibit D, p. 372.

^{vi}[6] TSN, January 10, 1995, pp. 2-11.

^{vii}[7] TSN, January 16, 1995, pp. 2-9.

viii[8] TSN, January 23, 1995, pp. 2-7.

ix[9] Exhibit B, p. 371.

x[10] TSN, August 22, 1994, pp. 3-5.

xi[11] TSN, July 24, 1995, pp. 3-8.

xii[12] Exhibit 3, p. 530.

xiii[13] Exhibits 1 and 2, pp. 528-529.

xiv[14] TSN, July 31, 1996, pp. 4-7.

xv[15] *People vs. Maozca*, 269 SCRA 513 (1997).

xvi[16] *People vs. Villafuerte*, 232 SCRA 225 (1994).

xvii[17] *People vs. Reyes*, 282 SCRA 105 (1997).