

SYLLABI/SYNOPSIS

THIRD DIVISION

[G.R. No. 130940. April 21, 1999]

PEOPLE OF THE PHILIPPINES, *appellee*, vs. RHODELINE CASTILLON, *accused-appellant*.

D E C I S I O N

PANGANIBAN, J.:

In these difficult times, many Filipinos pin their hopes for an abundant future on overseas employment. In several cases, however, illegal recruiters have taken undue advantage of simple folk desperate to work abroad. This Court cannot let these vultures roam the countryside and prey on the gullibility of our people.

The Case

Rhodeline Castillon appeals the December 8, 1995 Decision^{i[1]} of the Regional Trial Court of Davao City, Branch 17, which convicted her of large-scale illegal recruitment and imposed upon her the penalty of life imprisonment plus a fine of ₱100,000.

Prosecutor Emilio G. Dayanghirang III charged appellant in an Information dated January 9, 1995, which we quote:

The undersigned [charges] the above-named accused [with] the crime of [i]llegal [r]ecruitment [on a] large [s]cale under Article 38 in relation to Article 39 of Presidential Decree No. 2018, committed as follows:

That sometime in November, 1994, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, representing [her]self to have the capacity to contract, enlist and recruit workers for employment abroad, did then and there wilfully, unlawfully and feloniously for a fee, recruit and promise employment/job placement abroad to Emily B. Perturbos, Nelia B. Perturbos, Ma. Dahlia S. Acol and Clemencia Bula-ag by charging fees, [without] being authorized by the rules/regulations set forth by the Department of Labor and Employment or its instrumentality.^{ii[2]}

Assisted by Counsel *de Oficio* Juan Zamora of the Public Attorneys Office, appellant pleaded not guilty during her arraignment on February 14, 1995.^{iii[3]} Trial ensued in due course. On December 8, 1995, the court *a quo* rendered its assailed Decision, the decretal portion of which reads:

WHEREFORE, finding the evidence of prosecution, more than sufficient to prove the guilt of accused, Rhodeline Castillon y Lozada of the offense charged, pursuant to Art. 38 in relation to Art 39(a) of PD No. 442, [the] New Labor Code as amended by PD No. 2018 [, the] accused, Rhodeline Castillon, is sentenced to suffer a penalty of life imprisonment and to pay a fine of ₱100,000.00, in favor of government.

Moreover, pursuant to Art. 100 in relation to Art. 104 of the Revised Penal Code, covering civil indemnity, [the] accused is ordered to pay each of the complainants, Emily Perturbos, Nelia Perturbos, Maria Dahlia Acol, [and] Clemencia Bula-ag, the amount of ₱4,000.00 received by [the] accused, in consideration of her aborted promise[s], to secure employment of complainants abroad.^{iv[4]}

The Facts

Version of the Prosecution

The solicitor general summarized the prosecutions version of the facts as follows:

On November 12, 1994, Emily Perturbos met Rhodeline Castillon at the Magsaysay Park, Davao City (TSN, March 20, 1995, pp. 3-4). Castillon invited and convinced Perturbos to work with her as factory worker in Malaysia (ibid, p. 4). Perturbos accepted her offer because Castillon promised that she would take care of the necessary papers for her (Ibid). Castillon told Perturbos that ₱8,000.00 would [cover] the processing and placement fees (ibid). Castillon asked from Perturbos ₱4,000.00 as partial payment therefor (Ibid.).

On November 14, 1994, Perturbos gave Castillon ₱4,000.00 at the Traders Inn, Uyangoran, Davao City, where Castillon had checked in (Ibid, pp. 4, 5 & 7). Thereafter, Perturbos again gave Castillon ₱4,000.00 (Ibid, pp. 5-6).

Castillon promised Perturbos that she would leave for Manila on December 26, 1994, where they would get their tickets for Malaysia.

Castillon was also able to recruit Nelia Perturbos, Maria Dahlia Acol and Clemencia Bala-ag by making the same promise , and she asked from them ₱4,000.00 each as partial payment for the processing and placement fees (TSN, March 28, 1995, pp. 4-8, 17-20 & 27-30). They paid Castillon ₱4,000.00 each in their desire to work abroad (Ibid).

When December 26, 1994 came, Castillon, informed her recruits that they would leave for Manila on January 2, 1995, instead (Ibid; March 20, 1995, p. 7). But when January 2, 1995 came, Castillon failed to show up (Ibid.).

Nelia Perturbos inquired from the Philippine Overseas Employment Administrations whether she had a license to recruit overseas worker[s] (Ibid, March 28, 1995, p. 25). In response, the POEA issued a certification declaring that Castillon had no license to recruit overseas workers (Ibid; Exhibit A).

On January 7, 1995, the recruits reported Castellons illegal activities to the police authorities (TSN, April 17, 1995, pp. 4-6).

Version of the Defense

In her Brief, ^{v[5]} appellant presents the following version of the facts:

[The a]ccused vehemently denied the accusation imputed [to] her. [She] testified that sometime in 1993 she left the Philippines for Singapore and was able to work there as a bookkeeper. After working in Singapore for a year, she went back to her former job as a bookkeeper in Tacurong. Sometime in November 1994, while [she] was awaiting for her departure [for] Singapore, [she] met private complainant, Emily Perturbos, whom she first met in Suralla, Cotabato in 1993. Emily Perturbos requested the accused-appellant for assistance because the former likewise want[ed] to go to Singapore with her. Private complainant even invited the accused-appellant to her house on November 12, 1994, and there and then, Emily Perturbos informed her mother that whether the latter like[d] it or not, she [would] find ways in order to go to Singapore. Although at first hesitant, [the] accused-appellant expressed her intention to assist Emily Perturbos in going to Singapore but she reminded the private complainant that they [would] be entering Singapore as tourists. (TSN, July 21, 1995, pp. 4-16).

Elated with the prospect of going abroad, Emily Perturbos called by long distance her sister, Nelia Perturbos and informed [her] that she ha[d] a friend in the person of herein accused-appellant who could assist them in finding work abroad. Emily Perturbos then introduced three (3) other persons to herein accused-appellant, including her sister, Nelia Perturbos, and requested the accused to likewise extend assistance to these three (3) persons. (Ibid, p.15)

Ruling of the Trial Court

In convicting appellant, the trial court found that the victims paid the appellant P4,000 each, because of her fraudulent representation that she could provide them employment abroad. It ruled:

There is no doubt in the records from the evidence of the prosecution [that the] accused solicited, canvassed and demanded payment from all complainants, the partial amount of P4,000.00, in consideration of a promised employment abroad, through the efforts and influence of [the] accused herself. The denial of [the] accused, explaining she did not recruit complainants but she merely help[ed] them for humanitarian reason, cannot be accepted. The records will show, she herself took the initiative of going with complainant [to] Mangagoy, Surigao del Sur, in order to receive from Emily and Nelia Perturbos the above-advance payments[;] while in the case of Acol and Bula-ag, she personally went to the[ir] parents x x x to make representations and assurances [that] she [would] be responsible [for] providing employment [for] them abroad. ^{vi[6]}

The Issue

The defense imputes to the trial court this lone error:

The court a quo erred in finding the accused-appellant guilty beyond reasonable doubt of the crime of large scale illegal recruitment.

In other words, appellant is challenging the sufficiency of the prosecutions evidence.

The Courts Ruling

The appeal is devoid of merit.

Main Issue: *Sufficiency of Prosecution Evidence*

Large-scale illegal recruitment has the following essential elements:

- (1) The accused undertook [a] recruitment activity defined under Article 13(b) or any prohibited practice under Art. 34 of the Labor Code.
- (2) He did not have the license or the authority to lawfully engage in the recruitment and placement of workers.
- (3) He committed the same against three or more persons, individually or as a group.^{vii[7]}

Article 13 (b) of the Labor Code defines recruitment and placement as follows:

xxx [A]ny act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers [which] includes referrals, contact services, promis[es] 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.

The prosecution evidence proved beyond reasonable doubt that the foregoing elements were present in this case. There is no question that appellant did not have a license to engage in the recruitment of workers, as she herself admitted,^{viii[8]} and that the crime was committed against more than three persons. Appellant merely contends that she did not engage in the recruitment and placement of workers. Her argument is belied, however, by the evidence on record.

For a fee, appellant promised to find overseas work for Prosecution Witness Emily Perturbos, who testified:

Q. Sometime on Nov. 12, 1994, do you remember seeing the accused?

xxx xxx xxx

A. Yes, sir.

Q. Where?

A. At Magsaysay Park, Davao City.

Q. Why at Magsaysay Park? What did you do?

A. When we met at Magsaysay Park, Davao City, *she invited and convinced me to work with her as [a] factory worker in Malaysia.*

Q. What was your reaction to that?

A. I accepted her offer because she told me that she [would] take care of the necessary papers.

Q. Aside from [her] assurance to take care of the necessary papers, what else did she do?

A. She [had] ask[ed] downpayment from me.

Q. How much?

A. She [had] ask[ed] for ₱8,000.00, but she [later] asked me to pay ₱4,000.00 as partial payment for the processing and placement fee.

Q. Did you agree?

A. Yes, sir.

Q. You said, she [had] asked xxx you to give ₱8,000.00. How much did you give for the payment?

A. I only g[a]ve her ₱4,000.00.

Q. Do you have [a] document to prove the payment?

A. Yes, sir. I have here the receipt.

xxx xxx xxx

Q. After you gave the amount of ₱4,000.00 to the accused, Rhodeline Castillon, what happened?

A. She promised that we [would] leave Davao City for Manila on Dec. 26, 1994, and thereat, we [would] get our tickets from the agency for Malaysia.

Q. Before that, Emily Perturbos, did you give the ₱4,000.00 to the accused?

A. Yes, sir.

Q. Where did you give the money?

A. At Traders Inn at Uyanguren, Davao City.

Q. Why xxx at Traders Inn?

A. She xxx checked xxx in that Inn.

Q. The accused promised you xxx departure for Manila[;] were you able to depart?

A. No, because [the] new year [was] [f]ast approaching[;] she arranged that we [would] instead leave for Manila on Jan. 2, 1995.

Q. Were you able to leave on Jan. 2, 1995 as promised?

A. Not again, sir.

Q. Why?

A. Because she already hid herself.

Q. What did you do when she did not show up?

A. Since she did not show up anymore, for the alleged reason that I was angry with her, I reported the matter to the police.

Q. What police station?

A. At Sta. Ana Police Station.

Q. Do you have an [excerpt] of the prior blotter at Sta. Ana Police Station?

A. None, sir.

Q. Anyway, you reported the matter to the police. Where else did you report the matter?

A. No more, sir. I just asked my elder sister to go to the POE[A] to [ask] for a certification.

Q. Who is your sister?

A. Nelia Perturbos.

Q. Were you able to secure a certification?

A. Yes, sir.^{ix[9]}

The foregoing narration of Emily Perturbos was corroborated by her sister Nelia, who testified thus:

Q. Please tell the court why xxx you know the accused[.]

A. One time, when I was at Zamboanga, my sister called up my father that she ha[d a] transaction with Rhodeline Castillon. I was the one who received the call and my sister told [me] over the phone that they were going to Mangagoy to get money to be given to Rhodeline Castillon as placement and processing fee.

Q. Who was the sister you [were] referring, who called you in Zamboanga?

A. Emily Perturbos.

Q. Now, what did you do when you were called by your sister?

A. I asked her who [was] this Rhodeline Castillon.

Q. What was the answer of Emily Perturbos?

A. According to her, this Rhodeline Castillon [was] her friend who recruited her for work abroad.

Q. Where did you go from Zamboanga based on the call of your sister?

A. A few days after, I returned here in Davao City.

Q. On Nov. 19, 1994, what happened, if any?

A. Rhodeline Castillon went to our house.

Q. Are your referring to Rhodeline Castillon, the accused in this case?

A. Yes, sir.

ATTY. SANGO:

Objection. The witness is incompetent.

FISCAL EVANGELIO:

The accused went to the house.

COURT:

Sustain[ed].

FISCAL EVANGELIO:

Q. You said that Rhodeline Castillon went to your house[;] what happened?

A. I told her, so you are going abroad with my sister? and she answered that my quota [had] not [yet been] met, so I [was] still looking for an applicant.

Q. What did Rhodeline Castillon tell you?

A. *She told me, if you are interested, you can also go.* According to your sister Marilyn, xxx if you want, you can go to her and get money [from] her.

Q. What was you[r] comment on the request of Rhodeline Castillon?

ATTY. SANGO:

Objection. The question is misleading.

COURT:

Reform.

FISCAL EVANGELIO:

Q. On Nov. 21, 1994, what happened, if any?

A. On Nov. 21, 1994, I prepared a note and had it carr[ied] by Rhodeline to my sister[. In that note, I] asked money from her for my placement and processing fee.

Q. What happened to that note?

A. As I said, I gave [Rhodeline] my note, thats why she was given money by my sister and [the former] told me that I was going to leave on Dec. 26, 1994.

Q. You said, the accused was given money by your sister[;] do you have any proof?

A. I have, sir.

COURT INTERPRETER:

Witness [handing] the receipt to Fiscal.

FISCAL EVANGELIO:

This receipt was formalized. Will you please read the content of this receipt for the record?

WITNESS:

Received the amount of ₱4,000.00 from Nelia Perturbos, representing partial payment and for processing fee as factory worker for Malaysia.x[10]

Another prosecution witness, Clemencia Bula-ag, testified as follows:

A. Upon arriving at our house, Emily Perturbos introduced Rhodeline Castillon to us as her friend.

Q. Please tell the court if there [was] a conversation between you and Rhodeline?

A. Yes, sir.

Q. What was your conversation about?

A. She [asked] me that we were going abroad.

Q. What else did she tell you when she said you were going abroad?

A. She [asked] me, *if I was interested to go with them abroad and if I was willing to pay ₱8,000.00*

Q. What particular place abroad did she tell you, if any?

A. Malaysia.

Q. And what did that ₱8,000.00, represent?

A. *According to her, that was for the placement fee and initial payment.*

Q. What was your reaction to the offer of the accused?

A. I told her at that time, I [would] consult my father if he [would] allow me to go abroad.

Q. Were you able to get the consent of your father?

A. Yes, to go abroad.

Q. After getting the consent of your father, what did you do?

A. I asked money from my father, because as I said, Rhodeline Castillon asked from me ₱4,000.00.

Q. Why should you only give ₱4,000.00, when she asked for ₱8,000.00?

A. Because she told me to give her ₱4,000.00 as initial payment.

Q. Where did you give Rhodeline Castillon this ₱4,000.00?

A. In our house. She was actually waiting for me at that time.

Q. When was that, if you remember?

A. Last Nov. 19, 1994 in the morning.

Q. Do you have any document to show that you gave the amount of ₱4,000.00?

A. Yes sir.

FISCAL EVANGELIO:

Please show it to the court.

COURT INTERPRETER:

Witness showing to fiscal the receipt in a 1/8 sheet of paper.

FISCAL EVANGELIO:

Please read for the record, this simple receipt.

WITNESS:

Nov. 19, 1994. Received the amount of ₱4,000.00, from Clemencia Bula-ag for partial payment [of] her processing fee. Signed by Rhodeline Castillon.xi[11]

The last complainant, Ma. Dahlia Acol, testified in this manner:

A. I was at that time introduced by Emily Perturbos to Rhodeline Castillon.

Q. Do you know the accused?

A. Yes, sir.

Q. Will you identify her by pointing at her?

A. Yes, sir.

Q. What happened next?

A. I was recruited by Rhodeline Castillon.

Q. Why were you recruited by Rhodeline Castillon?

A. *According to her, there is a need for a factory worker in Malaysia.*

Q. And what other thing did she tell you?

A. *According to her, she needed an applicant for Malaysia.*

Q. What was your reaction to that recruitment for Malaysia?

A. *She recruited me. But at that time, I told her that I ha[d] no money[;] [at a later] time I was able to give her money.*

Q. How much did the accused [ask] from you?

A. She needed ₱8,000.00.

Q. What [was] this ₱8,000.00 for?

A. According to her, that ₱8,000.00 [would] represent the processing fee. But at that time, she [was] asking the partial payment of ₱4,000.00.

Q. Were you able to give her the ₱4,000.00?

A. Yes, sir.

Q. Do you have any proof to show that you g[a]ve the ₱4,000.00 to Rhodeline Castillon?

A. Yes, sir.

COURT INTERPRETER:

Witness [handing] a receipt to fiscal written [o]n a [page] of notebook.

FISCAL EVANGELIO:

Q. What is [your] educational attainment?

A. High school.

FISCAL EVANGELIO:

Please read the content of this receipt for the record.

WITNESS:

'Received the amount of ₱4,000.00 from Ma. Da[h]lia Acol, for partial payment for the processing for her paper. *Rhodeline Castillon. Recruiter.*'^{xii[12]} (Emphasis supplied.)

The above-quoted testimonies unequivocally prove that appellant promised to the three complainants jobs in Malaysia, provided they would each pay ₱4,000 initially and, upon confirmation of their flight, an additional ₱4,000. The fact that each of them paid the initial amount of ₱4,000 is evidenced by the receipts issued and signed by the appellant. Although the latter questioned the genuineness of the said documents, she admitted during the trial that she received the amount.^{xiii[13]}

In her defense, appellant avers that she was merely helping the complainants find jobs abroad for humanitarian reasons. Because she had been abroad before, she was allegedly begged by the complainants to help them find overseas employment. Furthermore, she could not have been a recruiter, because she herself was an applicant for an overseas job, for which she had been recruited by an agency in Manila.

Appellants arguments are not convincing. *First*, recruitment includes any act of canvassing, x x x contracting, x x x promising or advertising for employment abroad, for profit or not. *Second*, it is clear that she demanded money from persons seeking employment abroad. In committing the challenged acts, she was working not with a recruitment agency, but with her aunt Maricor Acosta. This is clearly proven by a letter, signed by the latter, informing the complainants that their papers were indeed being processed. Contradicting appellants claim that her acts were motivated by humanitarian reasons, the handwritten letter reads:^{xiv[14]}

December 31, 1994

Dear Inday,

Happy New Year! Im sure that youre very eager to come here and go abroad already. Supposedly, I understand you and your plan in life but kung pwede ang schedule mo ay sa March or April na. *Please lang day, understand us naman ikaw lang and inaasahan namin diyan sa Mindanao at dagdagan mo pa and mga applicants mo.*

Regarding your applicants, their schedule are as follows and they must know this so that hindi sila mag-alanganin sa atin. 1) Clemencia Bula-ag is on February 18 tentative pa iyan ill just send telegram para hindi na siya mag-stay ng matagal, she must arrive here on before her flight to Singapore. 2) Dahlia Acol is same as Bula-ag 3) Emily

Perturbos is first week pa sa March same as her sister Nelia Perturbos 4) Juancho Hesus hindi pa mapirmahan ang kanyang working permit, but dont you worry ginagawa ko ang lahat ng paraan para magkaroon siya ng working visa. Tell them not to worry they can all came to abroad to fulfill their dreams and be sure that they are all in good health.

About their remaining balance of processing will you please collect them so that maipadala mo dito sa akin especially Bula-ag, Acol & Emily para matapos na lahat ang papers nila para pagdating nila dito hindi na sila magtagal dito, kung pwede gawin mo ito ng madali. Ill just send your allowance on January kasi pupunta kami bukas sa Singapore to meet your sister Gerlyn, hindi ko pa alam ang balik ko sa Manila, asikasuhin ko ang mga papers ng applicants mo & please see the xerox copy of their passports. See you kung gusto mo, ihatid mo sila sa Maynila basta ikaw by March or April pa.

MARICOR ACOSTA
1903 Visayan Avenue
Balic Balic Sampaloc
Manila

The letter reveals that appellant was looking for more applicants in the Mindanao area. This is consonant with the testimony of Nelia Perturbos that because appellant had not yet reached her quota, the latter persuaded her and her sister to apply for jobs abroad.xv[15]

Appellants recruitment of four persons despite her lack of authority or license to do so is uncontroverted. She is thus guilty of large-scale illegal recruitment as defined and penalized in Articles 38(b) and 39(a) of the Labor Code, which provide:

ART 38. Illegal Recruitment. - (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment or any law enforcement [officer] may initiate complaints under this Article.

(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

ART 39. Penalties - (a) The penalty of life imprisonment and a fine of One Hundred Thousand Pesos (P100,000) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

xxx

xxx

xxx

Be that as it may, no effort to bring Maricor Acosta to justice has been communicated to this Court. We are therefore directing the Office of the Clerk of Court to furnish the justice secretary a copy of this Decision, so that he may take appropriate steps to prosecute her, if so warranted in the premises.

WHEREFORE, the appeal is *DENIED* and the assailed Decision is *AFFIRMED*. Costs against appellant.

SO ORDERED.

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

i[1] Presided by Judge Renato A. Fuentes.

ii[2] Records, p. 11.

iii[3] *Rollo*, p. 16.

iv[4] RTC Decision, p. 13; *rollo*, p. 28.

v[5] Pp. 3-4; *rollo*, pp. 52-53. This was signed by Attys. Arceli Rubin, Amelia C. Garchitorena and Beatriz G. Teves.

vi[6] Assailed Decision, p. 10; records, p. 111.

vii[7] *People v. Villas*, 277 SCRA 391, August 15, 1997, per Panganiban, *J.*; *People v. Bautista*, 241 SCRA 216, February 9, 1995, per Puno, *J.*; *People v. Comia*, 236 SCRA 185, September 1, 1994; *People v. Sendon*, 228 SCRA 489, December 15, 1993.

viii[8] Appellants Brief, p. 6; *rollo*, p. 55.

ix[9] TSN, March 20, 1995, pp. 3-4 and 6-7. (Italics supplied.)

x[10] TSN, March 28, 1995, pp. 3-6. (Italics supplied.)

xi[11] TSN, March 28, 1995, pp. 18-19.

xii[12] TSN, March 28, 1995, pp. 28-29.

xiii[13] TSN, July 21, 1995, pp. 27-28.

xiv[14] Records, p. 37.

xv[15] TSN, March 28, 1995, p. 4.