

SYLLABI/SYNOPSIS

SECOND DIVISION

[G.R. No. 108027. March 4, 1999]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. CRISTINA M. HERNANDEZ, *accused-appellant*.

DECISION

QUISUMBING, J.:

Accused-appellant Cristina Hernandez, together with Alexander Gaerlan, Engineer Rizalino Mendez, Engineer Pangilinan [sic], and Annie Bernardino, was charged with the crime of illegal recruitment committed in large scale in violation of Article 38 (a) and (b)^{i[1]} in relation to Article 39 (a)^{ii[2]} and Article 13 (b) and (c)^{iii[3]} of the Labor Code (PD. 442 as amended), committed as follows:

That on or about the period comprised from January 1986 and March 1986, inclusive, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another, being private individuals represented themselves to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there wilfully, unlawfully and feloniously for a fee, recruit and promise employment or job placements to job applicants, namely: Ferdinand Calara, Pedro Bonifacio, Saturnino Agbayani, Ernesto Cruz, Inocencio Padilla, Edwin Mendello, Eugenio dela Cruz, Miguel Bernabe, Joel Mozon, Lucas Mangagil, Alberto Salvatierra, Graciano A. Daga and Luisito B. Marias, without first securing the required license or authority from the Department of Labor and Employment.

Contrary to law.^{iv[4]}

On March 31, 1989, accused-appellant Hernandez and accused Mendez were arraigned. Both pleaded not guilty. Trial on the merits ensued, with the prosecution presenting four (4) witnesses, namely: Ferdinand Calara, Pedro Bonifacio, Ernesto Cruz and Luisito Marias. Thereafter, prosecution rested its case. Defense then presented accused-appellant Hernandez as its sole witness. Accused Mendez did not present any evidence on his behalf.

Prosecution witness Ferdinand Calara testified that he met accused-appellant through Annie Bernardino who brought him to Min-Asia Management Services (Min-Asia for brevity). Accused-appellant was introduced to Bernardino as the owner of the company. He likewise met Engineer Mendez and Alexander Gaerlan as Operations Managers and Engineer Pangilinan as Liaison Officer. Accused-appellant and her staff requested Calara, together with other recruits, to pay their placement and agents fees, and to submit requirements such as medical certificate, AIDS test, photos, passport, certificate of employment, NBI and police clearances. He was promised by the accused-appellant that he would be deployed abroad anytime within one week

minimum to one month maximum. His placement location will be purportedly with ARAMCO in Saudi Arabia as general foreman and later as general skilled worker.v[5]

Another applicant who testified was Pedro Bonifacio; he stated that he met accused-appellant through his neighbor, Calara. Initially, the job vacancy offered to him was for a waiter. However, he was later informed that there was no more opening for said position. Instead, the post of general skilled worker at ARAMCO would be given to him. He likewise paid the necessary processing fees and submitted the necessary requirements.vi[6]

Ernesto Cruz, another witness, testified that he was introduced to accused-appellant by her agent, Bernardino. When he was at Min-Asia preparing his application, he met several other applicants all accompanied by Bernardino. He was likewise made to pay the processing fees.vii[7]

The last witness, Luisito Marias, testified that as an applicant he met accused-appellant in Min-Asia through Diwang Tolentino. Marias was promised employment abroad as a laborer. He paid a portion of the processing fees in cash, but no receipt was issued. When his employment did not materialize, Marias sought to withdraw his money. Accused-appellant issued a check which bounced upon presentation for encashment, by reason of insufficient funds.viii[8]

Payments made by the witnesses for processing of their applications as evidenced by receipts were submitted as exhibits for the prosecution.ix[9]

On the part of the defense, accused-appellant was presented as lone witness. She claimed that she held office in the same building as Min-Asia, and that she was engaged in the business of retailing Magnolia Chicken. According to her, she sub-leased to Min-Asia one-half of her office space but without a written lease contract between the parties. Her testimony mainly denied the averment that she was connected with Min-Asia (other than as a sub-lessor). She denied all allegations of holding any position with, or being an officer of, the recruitment agency. She further denied being a stockholder of said agency. Although she testified as to the names of the owners of the agency, she denied any knowledge of their current whereabouts. Neither did she admit to ever personally meeting any of the complainants. She admitted to having met co-defendant Mendez, but only because he was an employee of the agency and used to report for work at Min-Asia. She denied as her own the signatures appearing in the exhibits presented to her.x[10]

After weighing the testimonies and evidence presented, the trial court found the accused-appellants defense, which consisted mainly of denying the allegations presented by the witnesses for the prosecution, unconvincing. The trial judge pointed out that, as it has been consistently held by this Court, the defense of denial is inherently weak and cannot prevail over the positive and credible testimonies of the prosecution witnesses that the accused recruited the applicants with the intention to defraud them of their placement fees.xi[11] Hence, the trial court held that the guilt of the accused-appellant was proven beyond reasonable doubt, and disposed as follows:

WHEREFORE, premises considered, this Court hereby finds that the accused CRISTINA HERNANDEZ and RIZALINO MENDEZ, [are] guilty beyond reasonable doubt of the crime of illegal recruitment, committed in a large scale, as defined in Article 38 (a) and (b) of Presidential

Decree No. 1412, amending certain provisions of Book I, P.D. 442, otherwise known as the New Labor Code of the Philippines, in relation to Article 13 (b) and (c) of said Code as further amended by P.D. Nos. 169, 1920 and 2018, accordingly sentences both accused to suffer the penalty of life imprisonment (RECLUSION PERPETUA) with the accessory penalties provided for by law, each to pay a fine of ONE HUNDRED THOUSAND (P100,000.00) PESOS without subsidiary imprisonment in case of insolvency; to return and pay, jointly and solidarily, to Calara the sum of FIFTEEN THOUSAND (P15,000.00) PESOS; to Bonifacio the sum of THIRTEEN THOUSAND FIVE HUNDRED (P13,500.00) PESOS; to Cruz the sum of TWELVE THOUSAND (P12,000.00) PESOS; to Marias the sum of SIX THOUSAND THREE HUNDRED (P6,300.00) PESOS; also without subsidiary imprisonment in case of insolvency; and to pay the costs.

Manila, Philippines, November 20, 1991.^{xii}[12]

Records of the case were forwarded to this Court by the Regional Trial Court of Manila, Branch 12, in view of the fact that penalty in this case is life imprisonment.^{xiii}[13] She now seeks a reversal of the judgment of conviction on the sole ground that the lower court erred in appreciating the evidence presented by the prosecution in its favor, and disregarding the denial asserted by her.

In her brief, appellant maintains that she has no personal connection in any way with Min-Asia, either as an officer or as a stockholder thereof. However, she admits that she was lessor of the office space at Don Santiago Building in Taft Avenue but that she sub-leased half of her space to said agency. The names of the recruiters, Bernardino and Tolentino came up in the testimonies of the complainants but they were never apprehended nor brought to trial, thus she contends that she was held to answer for the charge being allegedly the only link to Bernardino who remains still at large. She denies the signatures indicated in several cash vouchers and receipts as her own. According to her, the fact that she was always seen at the agency, was a mistaken presumption of her connection with Min-Asia. Moreover, she explains the reason she was always within the vicinity of the agency was that the other half of the space rented out was her office. She further states that, it is unusual and unnatural for the complainants who were all college graduates to entrust their hard earned money to a sexagenarian, [o]n the other hand, it is against human experience that a 64-year-old woman would risk being incarcerated by engaging in illegal recruitment.^{xiv}[14]

After a thorough study and consideration of the evidence on record, we are inclined to affirm the trial courts judgment. We find appellant, despite her denial, to have been engaged in the practice of illegal recruitment in large scale and thus violated the provisions of Article 38 (a) and (b) in relation to Article 39 (a) and Article 13 (b) and (c) of the Labor Code.^{xv}[15]

Appellants argument is less than convincing. In the face of direct and positive evidence presented by four complainants against her, the appellant could interpose only the defense of denial. She would want the trial court to make her denial prevail over the testimonies and documents presented by the prosecution. However, nothing on record would show any ill-motive or bias whatsoever that would taint the prosecutions evidence. It thus becomes impossible for an objective judge to overturn, without legal basis, precedents which maintain that denial is a self-

serving negative evidence that cannot be given greater weight than the declaration of credible witnesses who testified on affirmative matters. Between categorical statements of prosecution witnesses, on the one hand, and bare denials of the accused, on the other hand, the former must perforce prevail.^{xvi[16]} All of the witnesses testified to having personally met the accused; they averred that she asked from them a sum of money in exchange for the promised employment overseas. Moreover, exhibits were presented in the form of receipts issued by and copies of the documentary requirements submitted to appellant. For appellant to say that she was merely chosen as a scapegoat for appellees' misfortune, having failed to bring the alleged real recruiter to justice, does not appear well founded. It is but a hasty generalization of no probative significance. Without credible evidence proffered by the defense, bad faith or ulterior motive could not be imputed on the part of the appellees in pointing to the accused as the illegal recruiter who victimized them. When there is no showing that the principal witnesses for the prosecution were actuated by improper motive, the presumption is that the witnesses were not so actuated and their testimonies are thus entitled to full faith and credit.^{xvii[17]}

If indeed appellant was merely the office neighbor of the real illegal recruiter, then there should be no plausible reason for complainants to harbor any grudge against appellant. Appellants brief describes her as a hapless old woman,^{xviii[18]} and referred to complainants as educated college graduates.^{xix[19]} To hurl a criminal charge against a woman in her sixties knowing it carries with it such a heavy penalty as life imprisonment, just because complainants needed a convenient fall guy to answer for their misfortune caused by their own gullibility,^{xx[20]} goes against the grain of human nature. When a charge of such gravity is made, dismissing the charge as baseless on the basis of a simple denial, without more, could tax ones credulity. Behind the accusations made by complainants are incontrovertible pieces of evidence found by the trial court, and to which we now give full faith and credence, as proving the offense charged beyond reasonable doubt. Aside from testimonies, documentary evidence including receipts, bouncing checks, and employment application forms traceable to the appellant are on record. Moreover, we have no reason to discount the trial courts appreciation of the complainant-witnesses truthfulness, honesty and candor. For such appreciation deserves the highest respect, since the trial court is best equipped to make the assessment of the witnesses credibility. Its factual findings are generally not disturbed on appeal. Furthermore, it is also in a vantage position to gauge the credibility of witnesses and to properly appreciate the relative weight of the often conflicting evidence presented by the parties.^{xxi[21]} The uncorroborated testimony of appellant, in our view, is far from credible and utterly fails to overcome the great weight of the prosecutions evidence concerning her guilt.

While the trial court correctly found appellant guilty beyond reasonable doubt of the crime of illegal recruitment committed in a large scale, the court *a quo* inaccurately imposed upon appellant the penalty of life imprisonment (*RECLUSION PERPETUA*). Time and again we have emphasized the distinction between life imprisonment and *reclusion perpetua*. Here, that distinction ought to be stressed anew.^{xxii[22]}

WHEREFORE, the decision of the Regional Trial Court of Manila, Branch 12, convicting appellant Cristina M. Hernandez of the crime of Illegal Recruitment in Large Scale as defined and penalized under Articles 38 (a), (b) and (39) of the Labor Code is hereby **AFFIRMED** with

the clarification that the penalty imposed therefor is life imprisonment and a fine of ₱100,000.00 pursuant to Article 39 of the Labor Code. Except as so clarified, the appealed decision stands.

Costs against appellant.

SO ORDERED.

Bellosillo, (Chairman), Puno, Mendoza, and Buena, JJ., concur.

i[1] 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 Department 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.

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ii[2] Art. 39. Penalties. (a) The penalty of life imprisonment and a fine of One Hundred Thousand Pesos (₱100,000) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein:

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iii[3] Art. 13 Definitions. x x x x x x x x x

(b) Recruitment and placement refers to 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.

(c) Private fee-charging employment agency means any person or entity engaged in the recruitment and placement of workers for a fee which is charged, directly or indirectly, from the workers or employers or both.

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iv[4] INFORMATION; *Rollo*, p. 2.

v[5] DECISION Crim. Case No. 88-62599, p.2; *Rollo*, p. 20.

vi[6] *Ibid.*, p. 3; *Rollo*, p. 21.

vii[7] *Id*

viii[8] *Id.*

ix[9] *Id.*, pp. 2-3; *Rollo*, pp. 20-21.

x[10] *Id.*, p. 4; *Rollo*, p. 22.

xi[11] *Id.*, p. 6; *Rollo*, p. 24.

xii[12] *Id.*, p. 8; *Rollo*, p. 26.

xiii[13] NOTICE OF APPEAL, *Rollo*, p. 17.

xiv[14] APPELLANTS BRIEF, pp. 1-8; *Rollo*, pp. 59-66.

xv[15] *Supra*, 1, 2 and 3.

xvi[16] *People vs. Carizo*, 233 SCRA 687; *People vs. Miranda*, 235 SCRA 202; *People vs. Bello*, 237 SCRA 347.

xvii[17] See *People vs. Dela Cruz*, 229 SCRA 754; *People vs. Matildo*, 230 SCRA 635. *People vs. Caeja*, 235 SCRA 328.

xviii[18] *Supra* 14 at 7; *Rollo*, p. 65.

xix[19] *Ibid.* p.6; *Rollo*, p. 64.

xx[20] *Supra* 17.

xxi[21] *People v. Del Prado*, 253 SCRA 731; *People v. Mendoza*, 254 SCRA 61; *People v. Prado*, 254 SCRA 531.

xxii[22] *People v. Penillos*, 205 SCRA 546, January 30, 1992; See also Administrative Circular No. 6-92, which provides:

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For the guidance of all concerned, the reiteration and admonition by the Court on the same subject in *People vs. Penillos*, 205 SCRA 546, January 30, 1992, are reproduced hereunder:

'As noted from the dispositive portion of the challenged decision, the trial court imposed the penalty of *reclusion perpetua* or *life imprisonment*. Evidently, it considered the latter as the English translation of the former, which is not the case. Both are different and distinct penalties. In the recent case of *People vs. Baguio*, this Court held:

The Code does not prescribe the penalty of life imprisonment for any of the felonies therein defined, that penalty being invariably imposed for serious offenses penalized not by the Revised Penal Code but by special laws. *Reclusion perpetua* entails imprisonment for at least thirty (30) years after which the convict becomes eligible for pardon. It also carries with it accessory penalties, namely: perpetual special disqualification, etc. It is not the same as life imprisonment which, for one thing, does not carry with it any accessory penalty, and for another, does not appear to have any definite extent or duration.

As early as 1948, in *People vs. Mobe*, reiterated in *People vs. Pilonas* and in the concurring opinion of Justice Ramon Aquino in *People vs. Sumadic*, this Court already made it clear that *reclusion perpetua* is not the same as imprisonment for life or life imprisonment. *Every Judge should take note of the distinction and this Court expects that, henceforth, no trial judge should mistake one for the other.* (Italics supplied).

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