

FIRST DIVISION

[G.R. NO. 148137. January 16, 2003]

PEOPLE OF THE PHILIPPINES, *appellee*, vs. DOMINGA CORRALES FORTUNA, *appellant*.

DECISION

VITUG, J.:

On 29 September 1998, Dominga Corrales Fortuna, herein appellant, was charged with illegal recruitment in large scale under Section 6, paragraph (m), of Republic Act No. 8042, said to have been committed thusly:

That sometime in the month of July, 1998, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is neither a licensee nor holder of authority in the overseas private recruitment or placements activities, did then and there, willfully, unlawfully and feloniously undertake a recruitment activity by inducing and convincing REBECCA P. DE LEON, ANNIE M. NUQUE, NENITA A. ANDASAN, ANGELYN N. MAGPAYO, LINA N. GANOT and EDGARDO C. SALVADOR, that she could secure for them a job in Taiwan, and as a result of such enticement, said Rebecca P. De Leon, Annie M. Nuque, Nenita A. Andasan, Angolan N. Magpayo, Lina N. Ganot and Edgardo C. Salvador, who were interested to have such employment, gave and delivered to the accused the total sum of THIRTY TWO THOUSAND FOUR HUNDRED PESOS (P32,400.00), Philippine Currency, representing medical fees in connection thereof, to the latters damage and prejudice as they were not able to get a job in Taiwan through no fault of their own as promised by the accused, who likewise failed to reimburse to herein complainants the aforementioned amount despite repeated demands; that considering that there are six (6) or more complainants prejudiced by the unlawful acts of the accused, the same is deemed committed in large scale and considered an offense involving economic sabotage. ^u

When arraigned on 29 February 2000, appellant Dominga Fortuna, with the assistance of counsel, pleaded not guilty to the crime charged; trial then ensued.

Taking the witness stand for the prosecution were private complainants Lina Ganot, Nenita Andasan and Angelyn Magpayo.

Lina N. Ganot, Angelyn N. Magpayo, Nenita A. Andasan, Rebecca P. De Leon, Annie M. Nuque and Edgardo L. Salvador met Dominga Fortuna y Corrales in a seminar on Tupperware products being then promoted for sale in Cabanatuan City. Fortuna took the occasion to converse with private complainants, along with some of the attendees, offering job placements in Taiwan. Convinced that Fortuna could actually provide them with jobs abroad, private complainants, on 06 July 1998, each gave her the amount of P5,400.00 to take care of the processing fee for medical examination and other expenses for securing their respective passports. On 13 July 1998, private complainants took the medical examination in Manila. Weeks went by but the promised departure had not materialized. Suspecting that something was not right, they finally demanded that Fortuna return their money. Fortuna, in the meanwhile, went into hiding. After having later learned that Fortuna had neither a license nor an authority to undertake recruiting activities, Angelyn Magpayo filed a complaint which, in due time, ultimately resulted in the indictment of Fortuna for illegal recruitment. During the preliminary investigation, as well as later at the trial, Fortuna gave assurance to have the money she had received from private complainants returned to them but, except for the amount of P1,250.00 paid to Angelyn Magpayo, Fortuna was unable to make good her promise.

Dominga Fortuna, in her testimony, admitted having attended the seminar on June 1998 where she then met Annie Nuque, Rebecca De Leon, Nenita Andasan, Edgardo Salvador, Angelyn Magpayo and Lina Ganot. During the seminar, she purchased Tupperware products from private complainants after she was convinced to be their sub-agent. Initially, she was able to remit payments to private complainants on her sales but, when she failed to make subsequent remittances, she was threatened with criminal prosecution. In order to settle the matter, she executed separate promissory notes. When she again failed to pay, private complainants filed the case for illegal recruitment against her. Originally, there were six private complainants but eventually only three of them pursued the case because the others were finally able to leave for abroad.

In its decision, dated 02 January 2001, the Regional Trial Court, Branch 27, Cabanatuan City, held Dominga Corrales Fortuna guilty of Illegal Recruitment in Large Scale. The trial court held:

WHEREFORE, the Court finds the accused Dominga Fortuna GUILTY beyond reasonable doubt of Illegal Recruitment in Large Scale and hereby imposes upon her the penalty of life imprisonment and a fine of Five Hundred Thousand (P500,000.00) pesos, as the same involves economic sabotage.

She is likewise ordered to reimburse five thousand four hundred (P5,400.00) each to Lina Ganot, Nenita Andasan representing the amount they gave to the accused as processing fee and the amount of four thousand one hundred fifty (P4,150.00) pesos in favor of Angelyn Magpayo, as there was a partial restitution during the trial of the original five thousand four hundred (P5,400.00) pesos she delivered to the accused.¹²

Seeking a reversal of her conviction, appellant Fortuna, in her assignment of errors, would now have the Court conclude that -

I. The court *a quo* erred in convicting the accused-appellant on an information wherein the facts alleged therein do not constitute an offense;

II. The court *a quo* erred in finding that accused-appellant violated Section 6, par. (m) of R.A. 8042 when it did not reimburse the alleged amounts received from private complainants;

III. The court *a quo* erred standing its finding that the accused-appellant was guilty of illegal recruitment.^[3]

The appeal is bereft of merit.

The crime of illegal recruitment is committed when, among other things, a person who, without being duly authorized according to law, represents or gives the distinct impression that he or she has the power or the ability to provide work abroad convincing those to whom the representation is made or to whom the impression is given to thereupon part with their money in order to be assured of that employment.^[4]

Verily, the testimony presented at the trial by the complaining witnesses adequately established the commission of the offense.

Testimony of complainant Lina Ganot

Q. Mrs. Witness, where were you in the month of June, 1998?

A. At Macatbong, Cabanatuan City, sir.

Q. Were you gainfully employed at that time?

A. No, sir.

Q. On that particular month, June, 1998, having been unemployed at that time, was there ever an occasion that you tried to look for a job?

A. Yes, sir, I [tried] to look for a job.

Q. Was there ever an occasion that you tried to be a seller of Tupperware products?

A. Yes, sir.

Q. Please tell us in connection with this intention of yours to sell Tupperware products, did you ever attend a seminar?

A. Yes, sir.

Q. Where?

A. At Burgos Avenue, Cabanatuan City, sir.

Q. Have you ever come across this particular name Dominga Corrales Fortuna?

A. Yes, sir.

Q. And where were you able to meet this particular person?

A. At the seminar of the Tupperware, sir.

Q. What transpired with respect to this particular meeting?

A. She recruited us and told us that she will give us good jobs, sir.

COURT

Q. Where is she now?

A. There, sir (witness pointing to a person who, when asked, answered by the name of Dominga Corrales Fortuna).

FISCAL

Q. How was this accused able to relate to you that job placement will be available for you in Taiwan?

A. She told me [to give] her P5,400.00 for processing fee and she went to our house and I gave the said amount, sir.

Q. Upon hearing this particular proposition, what was your reaction?

A. I believe[d] and I thought that I [could] really work, sir.

Q. Aside from the processing fee of P5,400.00, were there any other financial matter that was given by you?

A. None, sir; when we went to Manila, we shouldered our expenses.

Q. When did you go to Manila?

A. July 13, 1998, sir.

Q. What was the purpose why you went there?

A. For medical purpose, according to her, sir.

Q. And who was with you?

A. The accused, sir.

Q. Aside from you and the accused, were there any other persons?

A. We were accompanied by my co-complainants, sir, aside from the accused.^[5]

Testimony of Angelyn Magpayo -

COURT:

Q. Do you know the accused?

A. Yes, Your Honor.

Q. Point to her now.

A. Shes the one, sir. (Witness pointing to a person whom when asked of her name answered Dominga Fortuna y Corrales.)

Q. How did you come to know her?

A. I came to know her during the seminar of Tupperware, Your Honor.

FISCAL MACARAIG:

Q. Why did you have to attend this seminar in the selling of Tupperware?

A. As an additional business, sir.

Q. Could you please tell us, where this seminar [was] being held at that time?

A. At Burgos St., Cabanatuan City, sir.

Q. And when did you meet the accused for the first time?

A. At the seminar in Tupperware, sir.

Q. Could you please tell us what transpired during the first meeting with the accused?

A. She introduced herself to us, sir.

Q. Afterwards, what happened next?

A. She conversed with us and asked if we want[ed] to work outside the Philippines, sir.

Q. And what was your response to the offer of the accused?

A. I said I [was] willing because I already have a passport, sir.

Q. Aside from that particular question, what other matters that you and the accused talked [about]?

A. She asked me if I [had] P5,400.00 for the processing of necessary papers, sir.

Q. And what was your response to this question?

A. I said I will raise [the] money, sir.

Q. [Were] you able to raise [the] money?

A. Yes, sir.

Q. When was the appointed time that you [would] have to hand or give the money to the accused?

A. July 6, 1998, sir.

Q. And were you able to actually give the money, the P5,400.00?

A. Yes, sir.

Q. Was there a receipt of this particular payment?

A. None, sir.

Q. Could you please tell us why there was no receipt for this particular payment?

A. Because I trusted her, sir.

Q. And after the payment of P5,400.00 what happened next?

A. She brought us to Manila for medical purposes, sir.

Q. And what happened thereafter?

A. I was not able to get the result of the medical examination, sir.

Q. By the way, what country was mentioned to you by the accused where you were going to work?

A. Taiwan, sir.

Q. And were you able to go to Taiwan?

A. No, sir.

Q. Could you please tell us why there was a failure in going to Taiwan?

A. After the medical examination, she never showed herself, sir.⁶⁸

Testimony of Nenita Andasan -

Q. Do you know a certain Dominga Fortuna y Corrales?

A. Yes, sir.

Q. In what capacity were you able to know this Dominga Fortuna?

A. During the seminar of Tupperware, sir.

Q. And what is this seminar all about?

A. About selling Tupperware products, sir.

Q. And where was this seminar of Tupperware held?

A. At Burgos Avenue, Cabanatuan City, sir.

Q. Do you know who [was] the one conducting this seminar?

A. No, sir.

Q. Why did you attend this particular seminar of Tupperware products?

A. Because I was invited, sir.

Q. How many persons attended that seminar?

A. I cannot recall how many persons there were, sir.

Q. When was this seminar held?

A. In the month of June, 1998, sir.

Q. June of what year?

A. 1998, sir.

Q. You mentioned awhile ago that it was during the seminar of Tupperware products that you were able to meet Dominga Fortuna, will you please tell us what transpired during that particular meeting?

A. We [had] conversation and then she asked us if we wanted to go abroad, sir.

Q. Who was the one [who] asked you that?

A. The accused Dominga Fortuna, sir.

Q. And what was your particular response?

A. I said to her yes, sir, because I want[ed] to have a job.

Q. Were you the only one [who] was present at the seminar of Tupperware that was offered this job?

A. Also my co-complainants, sir.

Q. What happened afterwards, after you told her that you were interested in working abroad?

A. We set the date in order to fix our papers, sir.

Q. By the way, were those the only matters told to you by the accused at that point in time?

A. She also told us to prepare money needed for that, sir.

Q. And how much would that money be to be prepared by you?

A. P5,400.00, sir.

Q. And did she tell you what this P5,400.00 is all about?

A. For processing of papers needed, sir.

Q. And when was the time that you had to actually pay or tender this P5,400.00?

A. In July, 1998, sir.

Q. Were you able to comply with this particular requirement?

A. Yes, sir.

Q. And when did you actually comply with this requirement?

A. On July 6, 1998, sir.

Q. To whom did you personally tender this P5,400.00?

A. In the house of Mrs. Ganot, sir.

Q. And where is the house of this Mrs. Ganot?

A. At Macatbong, Cabanatuan City, sir.

Q. By the way, who is this Mrs. Ganot?

A. She is the one heading us, sir,

Q. Do you have knowledge whether this Mrs. Ganot [was] also interested in working abroad?

A. Yes, sir.

Q. How many were you who were present when you actually tendered the P5,400.00?

A. We were six (6), sir.

Q. Do you know the names of the others?

A. Yes, sir.

Q. Will you please tell us the names of those other persons who were present when you actually tender the P5,400.00 to the accused?

A. Rebecca de Leon, Annie Nuque, Nenita Andasan, Angelyn Magpayo, Lina Ganot and Edgardo Salvador, sir.

Q. At that point in time after you had given the amount of P5,400.00 to the accused, was there an official receipt that was issued or given to you by the accused?

A. None, sir.

Q. Do you know of any reason why there was no receipt?

A. Because we trusted her, sir, because we were barriomates.

Q. At that point in time that you actually handed the P5,400.00, where was Dominga Fortuna?

A. She was present, sir.

Q. Did she tell you anything before and after the giving of this P5,400.00?

A. She said that we will be going to Manila to process our papers and passport and we will have a medical examination, sir.^[7]

The narration made by the complaining witnesses does appear to be straightforward, credible and convincing, and there scarcely is any reason for ignoring the trial court in its evaluation of their credibility. Indeed, the trial court has additionally observed:

x x x. There is no showing that any of the complainants had ill-motives against accused Dominga Fortuna other than to bring her to the bar of justice. Furthermore, appellant was a stranger to private complainants before the recruitment. It is contrary to human nature and experience for persons to conspire and accuse a stranger of such a serious crime like this that would take the latter's liberty and send him or her to prison. Against the prosecutions overwhelming evidence, accused could only offer a bare denial and an obviously concocted story.

Doctrinally, the assessment made on testimonial evidence by the trial judge is accorded the highest respect for it is he who has the distinct opportunity to directly perceive the demeanor of witnesses and personally ascertain their reliability. The rule has been said that a person charged with illegal recruitment may be convicted on the strength of the testimony of the complainants, if found to be credible and convincing, and that the absence of receipts to evidence payment to the recruiter would not warrant an acquittal, a receipt not being fatal to the prosecution's cause.^[8]

The pertinent provisions of Republic Act No. 8042 state:

SEC. 6. Definition. For purposes of this act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract of services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-license or non-holder of

authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, that any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged.

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Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Sec. 7. Penalties.

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00).

(b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

This Court finds the information which has charged appellant with the offense of Illegal Recruitment in Large Scale, defined and penalized in Republic Act No. 8042, to be sufficient in form and substance. While the information cited Section 6, paragraph (m), of Republic Act No. 8042, its factual averments, however, are sufficient to constitute the crime of Illegal Recruitment in Large Scale under the aforementioned provisions of the law. It is not the specific designation of the offense in the information that controls but it is the allegations therein contained directly apprising the accused of the nature and cause of the accusation against him that matter.⁹ The requisites constituting the offense of Illegal Recruitment in Large Scale have sufficiently been proven by the prosecution. **First**, appellant, undeniably, has not been duly licensed to engage in recruitment activities; **second**, she has engaged in illegal recruitment activities, offering private complainants employment abroad for a fee; and **third**, she has committed the questioned illegal recruitment activities against three or more persons. Illegal recruitment in large scale (when committed against three or more persons), like illegal recruitment committed by a syndicate (when carried out by a group of three or more persons), would be deemed constitutive of economic sabotage¹⁰ carrying a penalty, under section 7, paragraph (b), of Republic Act 8042, of

life imprisonment and a fine of not less than five hundred thousand (P500,000.00) pesos nor more than one million (P1,000,000.00) pesos. The sentence imposed by the trial court thus accords with the penalty prescribed by law.

A word in passing. No two cases are exactly alike; almost invariably, surrounding circumstances vary from case to case. It is this reality that must have compelled the adoption by the Revised Penal Code of the scheme of graduated penalties providing, correspondingly, for the circumstances that affect criminal liability. The system allows the judge to have a good latitude in the sentencing process. Indeed, in other jurisdictions, a bifurcated proceeding is prescribed in order to help make certain that the penalty is commensurate to the wrong done. Under this procedure, the guilt and the innocence of the accused is first determined and then, after a verdict of plea or guilt, a pre-sentence hearing is conducted where the judge or a jury would hear argument and receive additional evidence on such matters as the nature of the offense, manner of its commission, the milieu of time and place, as well as the education, religion, physical and mental state of the accused, along with still other conditions or circumstances, that may find relevance in either mitigating or aggravating the punishment to be meted,^[1] all calculated to enhance a fair judgment. Statutory provisions for a single penalty, like those prescribed in Republic Act No. 8042, virtually ignore these safeguards that help obviate the danger of imposing either too great or too little a punishment for the offense.

It is in the above light and given the factual circumstances of the case at bar, that Congress might see it fit to revisit Republic Act No. 8042 towards adopting the provisions of the Revised Penal Code on penalties, including its traditional nomenclatures, that could pave the way for the proper appreciation of the various circumstances long tested that affect criminal liability. Meanwhile, the Court respectfully recommends to the President of the Philippines a possible commutation of sentence.

WHEREFORE, the appealed decision of the Regional Trial Court, Cabanatuan City, in Criminal Case No. 8589 for Illegal Recruitment in Large Scale against appellant Dominga Corrales is AFFIRMED.

Let copies of this decision be forwarded to the Office of the President and to the Congress of the Philippines.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

^[1] *Rollo*, p. 8.

^[2] *Rollo*, p. 73.

^[3] *Rollo*, p. 54.

^[4] [People vs. Ong](#), 322 SCRA 38; *People vs. Goce*, 247 SCRA 780.

^[5] TSN, 09 May 2000, pp. 3-4.

^[6] TSN, 23 May 2000, pp. 4-8.

^[7] TSN, 16 June 2000, pp. 4-8.

^[8] [People vs. Saulo](#), 344 SCRA 605.

^[9] [People vs. Elamparo](#), 329 SCRA 404.

^[10] Sec. 10 of the Omnibus Rules and Regulations Implementing Republic Act 8042.

^[11] See Gerald D. Robin, Introduction to the Criminal Justice System, 2nd Edition, Harper and Row Publishers, New York (1984), at 332.