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FIRST DIVISION

[G.R. No. 199497, August 24, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DELIA CAMANNONG, ACCUSED-APPELLANT.

D E C I S I O N

BERSAMIN, J.:

On appeal is the judgment promulgated on April 14, 2011 in CA-G.R. CR-H.C. No. 03529,^[1] whereby the Court of Appeals (CA) affirmed the conviction of the accused-appellant for the crime of illegal recruitment in large scale penalized under Article 38(b), in relation to Article 39(a), of the *Labor Code* but increased the fine from P100,000.00 to P500,000.00. She had been found guilty under the decision rendered on August 19, 2008 in Criminal Case No. V-1013 by the Regional Trial Court, (RTC), Branch 50, in Villasis, Pangasinan.^[2]

Antecedents

The information for illegal recruitment in large scale, to which the accused-appellant pleaded *not guilty*, alleged:

That sometime on the 3rd week of July, 2000 at Mangampang, Pogo, Bautista, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously recruit JOEL G. SALVA, MARVIN ALBANO, REYNALDO SALVA, JR., ROLLY CALIXTRO and ROGER CABAEL for employment abroad, without first securing the requisite license or authority from the Department of Labor and Employment.

Contrary to Art. 38, par. (a) in relation to Art. 39, par. (B), Labor Code of the Philippines (P.D. No. 442), as amended by PD No. 2018.^[3]

At the trial, the Prosecution presented the complainants as witnesses, namely: Joel Salva, Marvin Albano, Rolly Calixtro, and Reynaldo Salva, Jr. Also presented as a witness for the Prosecution was Remedios Mercado, Labor and Employment Officer III of the District Office in Dagupan City of the Department of Labor and Employment (DOLE).^[4] On the other hand, the accused-appellant testified for the Defense along with Rogelio Maniquez.^[5]

The CA summarized the versions of the parties as follows:

x x x [T]he prosecution endeavored to prove that on the 3rd week of July 2000, DELIA met with MARVIN, ROLLY, REYNALDO, JR. and Joseph Cabael [JOSEPH] and introduced herself as a recruiter of workers for deployment to Israel as apple pickers. She told them that she needed their birth certificates and P500.00 for authentication, P1,500.00 for their medical examination and P6,500.00 to cover their processing fee and passports including the amount necessary to open a bank account for them. On the 2nd week of the following month, private complainants again met with DELIA and each of them handed her the amount of P6,500.00 in Alcala, Pangasinan. Because of their trust on and assurances of DELIA, they parted with their money without asking for receipts. According to them, DELIA promised that they would be able to leave for Israel sometime in the 3rd week of September 2000 but none of them was able to leave as promised. On February 2001, private complainants together with JOSEPH, SONNY, Betty Cabael and Susan Cabael went to DELIA's house to demand the return of their money and papers but she asked for time to withdraw the amount and retrieve the papers from their office. When DELIA defaulted again on her promise, they returned to her house but DELIA told them that the Philippine Overseas Employment Agency (POEA) will sue them if they insist on backing-out. Thus, they agreed among themselves to seek assistance from and file a complaint with the National Bureau of Investigation [NBI] of Dagupan.

On further questioning, JOEL recalled that DELIA was introduced to him and to MARVIN, REYNALDO, JR., ROLLY, JOSEPH and ROGER by a certain SONNY BRILLO [SONNY]. He claimed that he signed a contract for a monthly salary of P35,000.00 upon his deployment to Java, Israel. However, he was not furnished a copy of this contract. MARVIN, on the other hand, maintained that he had spoken with DELIA numerous times before he parted with his P6,500.00 upon the supposition that the same will be used for the procurement of his passport and payment of other processing fees. According to him, he gave a total of P7,000.00 to DELIA since he gave an additional P500.00 in the house of Susan Cabael. Meanwhile, ROLLY testified on cross-examination that it was SONNY who introduced him to DELIA when the latter went to their barangay in Bautista, Pangasinan to convince people to work abroad. When questioned by the trial judge, he asserted that aside from the P6,500.00, he gave DELIA an additional P500.00 for "authentication purposes" while at SONNY's bakery. Lastly, REYNALDO, JR. maintained during his cross-examination that he gave the money to DELIA and not to SONNY. On further questioning, the witness averred that "Pastor Sonny" and DELIA were then at the canteen of JOEL and that when he and his companions went there, they learned that DELIA and "Pastor Sonny" were recruiting workers for jobs abroad.

To prove DELIA's lack of authority to recruit workers for employment abroad, Remedios Mercado, Labor Employment Officer III of the Department of Labor and Employment [DOLE] of Dagupan City District, testified that DELIA had no certificate or license to recruit nor was she issued any special recruitment authority by the POEA.

For her part, DELIA, a sales supervisor of Rhine Marketing Corporation, denied knowing private complainants prior to her apprehension or that she recruited them for overseas employment. She insisted that it was SONNY, cousin of her friend Celedonia Cabael, who sends workers to Israel and that he approached her to inquire whether she knew some persons who were seeking employment abroad. According to her, NBI agent Rolly Lomboy [LOMBOY] went to her house and demanded P5,000.00 from her. When she did not accede, LOMBOY left and called her to go to the van parked along the road. When she got there, she saw five (5) unknown men seated inside the van and that she later learned that they were the applicants of SONNY. LOMBOY then took her mobile number and soon called her to meet him at Bayambang market. She sought the assistance of NBI agents who eventually apprehended LOMBOY in an entrapment operation at Cindy's Camiling. On cross examination, she asserted that while detained at the Urdaneta District Jail, two persons, whom she later learned to be some of the private complainants, approached her to sign an affidavit to withdraw her complaint against LOMBOY.^[6]

After trial, the RTC rendered its decision on August 19, 2008 pronouncing the accused-appellant guilty as charged, and disposed:

WHEREFORE, judgment is hereby rendered finding accused Delia Camannong GUILTY beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale, penalized under Art. 38 par. (b), in relation to Art. 39 par. (a), of the Labor Code, and is hereby sentenced to suffer the penalty of *life imprisonment* and to pay a fine of P100,000.00.

The accused is likewise ordered to pay the private complainants actual damages of P6,500.00 each with legal interest from the time of the filing of the Information until fully paid.

SO ORDERED.^[7]

The accused-appellant appealed to the CA, which promulgated the assailed judgment on April 14, 2011 affirming the conviction with modification of the fine, to wit:

WHEREFORE, the foregoing considered, the appeal is hereby **DENIED** and the assailed judgment of conviction is hereby **AFFIRMED with the MODIFICATION** that the amount of the fine imposed is **INCREASED** to Five Hundred Thousand Pesos (P500,000.00).

SO ORDERED.^[8]

Hence, this appeal.

Issue

The issue is whether or not the CA correctly affirmed the conviction of the accused-

appellant for the illegal recruitment in large scale and properly imposed the penalty provided by law.

Ruling of the Court

The appeal lacks merit.

The essential elements of illegal recruitment committed in large scale are: (1) that the accused engaged in acts of recruitment and placement of workers as defined under Article 13(b)^[9] of the *Labor Code*, or in any prohibited activities listed under Article 34^[10] of the *Labor Code*; (2) that she had not complied with the guidelines issued by the Secretary of Labor and Employment with respect to the requirement to secure a license or authority to recruit and deploy workers;^[11] and (3) that she committed the unlawful acts against three or more persons.^[12]

In the assailed judgment, the CA affirmed the findings of facts of the RTC, observing that:

First. DELIA made misrepresentations pertaining to her capacity to send workers abroad for employment, for which reason JOEL, MARVIN, REYNALDO, JR. and ROLLY, parted with their money believing that the same will be utilized to process their papers. Second. As testified to by an employee of the DOLE, one Remedios Mercado, DELIA had no authority to conduct any recruitment activity for overseas employment in the province of Pangasinan, including the cities of Dagupan, San Carlos and Urdaneta. Third. DELIA recruited for overseas employment, JOEL, MARVIN, REYNALDO, JR., and ROLLY.

Verily, DELIA is culpable for the crime of large scale illegal recruitment, having promised overseas employment to JOEL, MARVIN, REYNALDO, JR. and ROLLY as apple pickers in Israel. Her actions in requiring them to undergo medical examinations, opening bank accounts, procurement of passports and such other documents necessary for travel abroad, showed her alleged capacity to recruit private complainants for foreign employment when in truth she had no authority to do so. It must also be stressed that the failure of private complainants to show the covering receipts to prove payment to DELIA will not hinder her conviction for the crimes committed since the absence of receipts to evidence payment to the recruiter would not warrant an acquittal of the accused, and it is not necessarily fatal to the prosecution's cause.

Moreover, it is worthy to note that LOMBOY was never mentioned during the presentation of the prosecution's evidence either during the direct or cross-examination of its witnesses. When JOEL and MARVIN testified, only the name of Atty. Reynaldo Pangan was mentioned as the person before whom their respective affidavits were executed while the others did not mention any other names specifically that of LOMBOY. Curiously, not one of the private complainants were asked regarding their alleged connection to

LOMBOY with respect to this case when they were cross-examined by the defense counsel. Truth be told, the extortion charge against LOMBOY is merely being utilized by DELIA to lend some credence to her defense of frame-up. To Our mind however, the complaint filed against DELIA cannot be taken as a mere act of retaliation on the part of JOEL, MARVIN, ROLLY and REYNALDO, JR. since it is apparent that the extortion case against LOMBOY came only after private complainants charged her with illegal recruitment. Verily, the lack of any connection between LOMBOY and private complainants is a tell-tale sign that the concept of frame-up was but an eleventh-hour defense of DELIA.

For another, LOMBOY's actuations must be taken as a distinct event from which the extortion which DELIA claims, was rooted. Without any strong evidence to connect private complainants to LOMBOY's alleged act of extortion, this Court cannot simply brush aside the evidence presented for the crime of illegal recruitment in large scale during the trial on the sole ground that the arresting officer was involved in extortion. This is especially true since each private complainant narrated with particularity the details of their recruitment with respect to what was promised by and the amounts paid to DELIA thereby placing beyond doubt that the latter was indeed engaged in recruiting them for overseas work without any lawful authority to do so.

Trite to state, when the credibility of the witness is in issue, the trial court's assessment is accorded great weight unless it is shown that it has overlooked a certain fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case. Here, We find no reason to deviate from the findings of the trial court since the totality of the evidence supports DELIA's conviction for the crime charged.^[13]

We affirm the findings by the CA. It is settled that the factual findings of the trial court, including its assessment of the witnesses' credibility, are entitled to great weight and respect by the Court, particularly when the CA affirmed such findings. This is because the trial court is in the best position to determine the value and weight of the testimonies of witnesses by observing their demeanor at the time they testify. The absence of any showing by the accused that the trial court had overlooked certain facts of substance and value that, if considered, could alter the result of the case, or that the assessment by the trial court had been arbitrary, now impels the Court to give due deference to the trial court's determination of the credibility of the witnesses and other evidence.^[14]

In her defense, the accused-appellant tendered denial and frame up.^[15] Such defenses contrasted with the positive and firm assertions of the complainants pointing to her as the person who had induced them to part with their money in exchange for their being employed abroad. Denial and frame up were negative by nature, and, as such, did not prevail over the affirmative assertions of fact by the Prosecution's witnesses. Indeed, such defenses are usually regarded by the courts as inherently weak by virtue of their

being essentially self-serving and easy to contrive. Their being the usual recourse of persons like the accused-appellant who are haled in court to answer for criminal charges of illegal recruitment further diminishes their worthiness and credit.

Both the courts below unanimously found that the accused-appellant had misrepresented to the complainants her capacity to send workers abroad for employment. Believing her misrepresentation, they parted with their money for her to process their deployment papers. It was established that she did not have the necessary license or authority to engage in recruitment in the Province of Pangasinan, including the Cities of Dagupan, San Carlos and Urdaneta, a fact duly attested to by a competent employee of the Department of Labor and Employment. In this connection, the Prosecution did not even need to establish that she had not been issued any license or authority to lawfully engage in the recruitment and placement of workers. Under the law, even a licensee or holder of the authority to engage in recruitment who failed to reimburse the amounts received as placement or related fees upon her failure to deploy the victim could be criminally liable for the crime. It was observed in *People v. Ocden*:
[16]

x x x Section 6 of Republic Act No. 8042 enumerates particular acts which would constitute illegal recruitment whether committed by any person, whether a non-licensee, non-holder, licensee **or holder of authority**. Among such acts, under Section 6(m) of Republic Act No. 8042, is the [f]ailure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the workers fault.

Since illegal recruitment under Section 6(m) can be committed by any person, even by a licensed recruiter, a certification on whether Ocden had a license to recruit or not, is inconsequential. x x x.

The State fully discharged its burden of proof by establishing the concurrence of the aforestated elements of the crime charged with moral certainty. Consequently, the proof of guilt of the accused was beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty, for only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind.[17]

The judgment of the RTC, as affirmed by the CA, ordered the accused-appellant to pay the complainants actual damages of P6,500.00 each with legal interest from the filing of the information until fully paid.

We uphold the payment of actual damages in that amount and legal interest. It is true that actual damages, to be recoverable, must not only be capable of proof, but must also be proved with a reasonable degree of certainty, for the courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages. The courts have thus generally required competent proof of the actual amount of loss, and for this reason have denied claims of actual damages not supported by receipts.[18] Such policy has eliminated the fabrication of claims for actual

damages, or deterred judges from indulging in speculation, conjecture or guesswork. Yet, in this case, despite the complainants uniformly testifying that they had parted with their money without asking for receipts,^[19] there seemed to be no dispute about each of them having actually paid to the accused-appellant that amount for their processing and passport fees and other expenses including the amount necessary to open their bank accounts. To still deny them their right to recover actual damages only because they had no receipts to show for their payments would be a travesty of justice. For, if we are now affirming her conviction for illegal recruitment in large scale for collecting the sums of money from them, it would really be beyond understanding to reverse the assessment of actual damages by the trial judge just to serve the general policy of limiting proof of actual damages to receipts.

One of the constant lessons from our experience as judges is that the non-issuance of receipts by the illegal recruiters was also essential to the scheme to defraud the victims. By all means, then, should the lack of receipts not hinder the courts from vindicating the victims of the fraud. Moreover, the negation of the right to recover on that rigid basis would mock the *Rules of Court*, which has enshrined testimonial evidence as one of the means sanctioned by it of ascertaining in a judicial proceeding the truth respecting a matter of fact. Confining the proof of actual damages to documentary evidence would definitely trench on the institutional wisdom of the Court in erecting the triumvirate of evidence admissible in court.

Notwithstanding their failure to get receipts from the accused-appellant, therefore, the RTC rightly fixed actual damages of P6,500.00 for each of the complainants, and the CA justifiably agreed with the RTC.

Finally, imposing on the actual damages legal interest reckoned from the filing of the information was in accord with jurisprudence.^[20] The rate of legal interest is 12% *per annum* from the filing of the information until June 30, 2013, and 6% *per annum* from July 1, 2013 until full payment of the actual damages.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on April 14, 2011 by the Court of Appeals in CA-G.R. CR-H.C. No. 03529 subject to the **MODIFICATION** that accused-appellant Delia Camannong is ordered to pay to each of the complainants, namely: Joel G. Salva, Marvin Albano, Reynaldo Salva, Jr., Rolly Calixtro, and Roger Cabel, the amount of P6,500.00 as actual damages, plus interest thereon of 12% *per annum* from the filing of the information until June 30, 2013, and 6% *per annum* from July 1, 2013 until fully paid, and the costs of suit.

SO ORDERED.

Sereno, C. J., Leonardo-De Castro, Perlas-Bernabe, and Caguioa, JJ., concur.

^[1] *Rollo*, pp. 2-11; penned by Associate Justice Josefina Guevara-Salonga (retired), with Associate Justice Ramon R. Garcia and Associate Justice Fiorito S. Macalino concurring.

[2] CA *rollo*, pp. 37-43; penned by Judge Manuel F. Pastor, Jr.

[3] *Id.* at 37.

[4] *Id.* at 37-40.

[5] *Id.* at 40-41.

[6] *Rollo*, pp. 4-6.

[7] CA *rollo*, p. 43.

[8] *Rollo*, p. 11.

[9] Article 13. *Definitions.* - 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.

x x x x

[10] Article 34. *Prohibited practices.* - **It shall be unlawful for any individual, entity, licensee, or holder of authority:**

(a) To charge or accept, directly or indirectly, any amount greater than that specified in the schedule of

allowable fees prescribed by the Secretary of Labor, or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under this Code.

(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him to another unless the transfer is designed to liberate the worker from oppressive terms and conditions of employment;

(e) To influence or to attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;

(f) To engage in the recruitment or placement of workers in jobs harmful to public

health or morality or to the dignity of the Republic of the Philippines;

(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor or by his duly authorized representatives;

(h) To fail to file reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor.

(i) To substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the periods of expiration of the same without the approval of the Secretary of Labor;

(j) To become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency; and

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under this Code and its implementing rules and regulations.

[11] *Nasi-Villar v. People*, G.R. No. 176169, November 14, 2008, 571 SCRA 202, 208; *People v. OrtizMiyake*, G.R. Nos. 115338-39, September 16, 1997, 279 SCRA 180, 193.

[12] Under Section 6 (m) (Definitions) of Republic Act No. 8042, illegal recruitment "when committed by a syndicate or in large scale shall be considered as offense involving economic sabotage;" and illegal recruitment "is deemed committed by a syndicate 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.**" See *People v. Fernandez*, G.R. No. 199211, June 4, 2014, 725 SCRA 152, 156-157.

[13] *Rollo*, pp. 8-10.

[14] *People v. Ocdan*, G.R. No. 173198, June 1, 2011, 650 SCRA 124, 145-146.

[15] *CA rollo*, pp. 31-33.

[16] *Supra* note 14, at 142-143.

[17] Section 2, Rule 133 of the *Rules of Court*.

[18] *Tan v. OMC Carriers, Inc.*, G.R. No. 190521, January 12, 2011, 639 SCRA 471, 481, citing *Viron Transportation Co., Inc. v. Delos Santos*, G.R. No. 138296, November 22, 2000, 345 SCRA 509, 519.

[19] *Rollo*, p. 4.

[20] *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439.



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